

Sheriff Vernon Betts

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHN N. CASTELLANO, III,)	
)	
Plaintiff,)	
)	
vs.)	Case 4:19-CV-02304-SRC
)	
VERNON BETTS, et al.,)	
)	
Defendants.)	

ZOOM DEPOSITION OF SHERIFF VERNON BETTS

Taken on behalf of Plaintiff

September 3, 2020

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Exhibit 3

Sheriff Vernon Betts

<p style="text-align: right;">Page 14</p> <p>1 A Yes, ma'am.</p> <p>2 Q The reason I'm assuming that is if the</p> <p>3 defendants wanted to ask you questions, they'd just</p> <p>4 call you.</p> <p>5 A Yes.</p> <p>6 Q Did you believe that -- did you believe that</p> <p>7 Johnny Chester had been discriminated against by</p> <p>8 Sheriff Murphy?</p> <p>9 A Not in that case.</p> <p>10 Q What do you mean by not in that case? Did</p> <p>11 you believe that he had been discriminated against --</p> <p>12 Mr. Chester had been discriminated in other ways but</p> <p>13 not in the way he had set forth in his case?</p> <p>14 A Probably so, yeah.</p> <p>15 Q Why did you -- how did you believe that</p> <p>16 Mr. -- was he a deputy, he was not a sergeant?</p> <p>17 A No, he wasn't a sergeant, he was a deputy.</p> <p>18 Q How did you believe that Deputy Chester was</p> <p>19 discriminated against by Sheriff Murphy?</p> <p>20 A Well, not only -- yeah -- he may not have</p> <p>21 been given a fair opportunity to -- I don't know. I</p> <p>22 just believe with all the stuff going on in the --</p> <p>23 under Murphy's regime that he probably was</p> <p>24 discriminated against.</p> <p>25 Q Let me ask you this. Was Deputy Chester</p>	<p style="text-align: right;">Page 16</p> <p>1 you were the sheriff when the case came to trial, you</p> <p>2 had some kind of official capacity involvement in the</p> <p>3 lawsuit; is that correct?</p> <p>4 A That's correct.</p> <p>5 Q What had you heard about the incident that</p> <p>6 resulted in Deputy Chester's termination?</p> <p>7 A Well, I had heard about the situation that</p> <p>8 took place, an altercation between he and, I think,</p> <p>9 Mike Gamache was a sergeant at that time. So I heard</p> <p>10 bits and pieces about that altercation from several</p> <p>11 different people.</p> <p>12 Q And I'm assuming when you became sheriff,</p> <p>13 you had access to all the files, so you could review</p> <p>14 any investigation into that particular incident as</p> <p>15 well; is that correct?</p> <p>16 A That's correct, but I didn't.</p> <p>17 Q And then you said that -- to your knowledge,</p> <p>18 did Deputy Chester ever seek promotion while he worked</p> <p>19 for Sergeant Murphy?</p> <p>20 A I believe so.</p> <p>21 Q Do you believe he was denied promotion on</p> <p>22 the basis of race?</p> <p>23 A I'm not sure.</p> <p>24 Q So tell me, then -- let me go back to your</p> <p>25 words. What was going on with Murphy at the time that</p>
<p style="text-align: right;">Page 15</p> <p>1 fired by Sheriff Murphy?</p> <p>2 A Yes.</p> <p>3 Q And he challenged his termination in the</p> <p>4 lawsuit, correct?</p> <p>5 A Yes.</p> <p>6 Q And you believe that he was properly</p> <p>7 terminated would be my understanding of your prior</p> <p>8 testimony; is that correct?</p> <p>9 A Yes.</p> <p>10 Q That was not race based.</p> <p>11 A No, it was not.</p> <p>12 Q Why did you believe that Deputy Chester was</p> <p>13 properly terminated by Murphy?</p> <p>14 A Because of the incident, because of the</p> <p>15 ramification of the incident had nothing to do with</p> <p>16 race. It had something to do with him not carrying</p> <p>17 out his instructions that his supervisor gave him,</p> <p>18 following orders.</p> <p>19 Q Did you witness the insubordination</p> <p>20 personally or did you just hear about it?</p> <p>21 A I heard about it.</p> <p>22 Q I'm assuming when he was insubordinate, you</p> <p>23 were not the sheriff, correct?</p> <p>24 A Correct.</p> <p>25 Q But I did note from the pleadings because</p>	<p style="text-align: right;">Page 17</p> <p>1 you testified that you believed that Deputy Chester</p> <p>2 had been discriminated against in other ways, but not</p> <p>3 with respect to his termination? How had he been</p> <p>4 discriminated against?</p> <p>5 A I know that he and other African-American</p> <p>6 deputies had made requests for positions and raises</p> <p>7 and all kind of stuff like that, and I know that he</p> <p>8 had been denied. I think not based on qualifications,</p> <p>9 from what I understand, but based on probably color.</p> <p>10 Q And any other way that you -- any other way</p> <p>11 that you believe that Deputy Chester may have been</p> <p>12 discriminated against on the basis of his race?</p> <p>13 A No.</p> <p>14 Q And you said that there were other deputies</p> <p>15 that were -- that you believed suffered similarly.</p> <p>16 Who were the other African-American deputies that you</p> <p>17 believed -- sorry, I'm turning my phone on silent so I</p> <p>18 don't hear the ding again -- what other deputies do</p> <p>19 you believe were discriminated against on the basis of</p> <p>20 their race during Sheriff Murphy's tenure?</p> <p>21 A Well, I understand that there was a lawsuit</p> <p>22 filed in that regard. I don't remember all of the</p> <p>23 deputies who were involved. But I understand that</p> <p>24 there was a racial lawsuit filed.</p> <p>25 Q So -- I'm sorry, didn't mean to cut you off.</p>

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<p style="text-align: right;">Page 22</p> <p>1 head gestures. Korey and I don't want to be fighting</p> <p>2 after the deposition is over whether an uh-huh was a</p> <p>3 yes or a no. So if you say that clearly, we can avoid</p> <p>4 those issues.</p> <p>5 I'm assuming all of those little rules for a</p> <p>6 deposition are agreeable to you?</p> <p>7 A Yes.</p> <p>8 Q I had a police chief once tell me I wasn't</p> <p>9 going to tell him what to do, and he walked out after</p> <p>10 I did that. So I'm glad to see we don't have to deal</p> <p>11 with that today.</p> <p>12 Let me ask you first. Does the sheriff's</p> <p>13 department have any kind of a rule about whether an</p> <p>14 employee can work for it when it has an outstanding</p> <p>15 tax obligation, whether that be local, state or</p> <p>16 federal?</p> <p>17 A We do not.</p> <p>18 Q And some public employers, right, if you owe</p> <p>19 a public entity money, they'll give you a notice and</p> <p>20 then if you don't take care of it, they'll suspend you</p> <p>21 until you take care of the public entity. But you</p> <p>22 don't do any of that is my understanding, correct?</p> <p>23 A Correct.</p> <p>24 Q Before the lawsuit was filed, you're aware</p> <p>25 that John Castellano filed three charges of</p>	<p style="text-align: right;">Page 24</p> <p>1 Q So what did you and Colonel Roberts discuss</p> <p>2 when you received the charge?</p> <p>3 A Both kind of flabbergasted, and I think we</p> <p>4 then felt we should share that with my attorney.</p> <p>5 Q And your attorney is the City Counselor's</p> <p>6 office; is that correct?</p> <p>7 A Yes, but I don't think -- I have a personal</p> <p>8 attorney who I think we might have shared that with</p> <p>9 first.</p> <p>10 Q Let me ask you again. I'm not asking for</p> <p>11 communications you had with your personal attorney,</p> <p>12 but who is your personal attorney?</p> <p>13 A At that time it was Jolene Taft.</p> <p>14 Q Did she work for the sheriff's department or</p> <p>15 was she external to the sheriff's department?</p> <p>16 A She was external to the sheriff's</p> <p>17 department.</p> <p>18 Q Did you charge anybody in your department to</p> <p>19 do an investigation regarding the first charge of</p> <p>20 discrimination, Exhibit 1?</p> <p>21 A No.</p> <p>22 Q Why not?</p> <p>23 A I didn't think I should. I didn't think I</p> <p>24 needed to. We would wait and see what happens.</p> <p>25 Q How did you become aware of the charge? Who</p>
<p style="text-align: right;">Page 23</p> <p>1 discrimination, correct?</p> <p>2 A Yes.</p> <p>3 Q Did you review each of those charges? When</p> <p>4 they were given to the sheriff's office, did you</p> <p>5 actually read them?</p> <p>6 A Yes.</p> <p>7 Q So you have seen -- let me pull it up here</p> <p>8 real quickly. You have seen before what I've marked</p> <p>9 as Exhibit 1, which is the April 19th, 2017 charge of</p> <p>10 discrimination that was filed in June of 2017; is that</p> <p>11 correct?</p> <p>12 A Correct.</p> <p>13 Q Let me ask you first. Other than talking to</p> <p>14 your attorneys, what did you do when you received that</p> <p>15 charge?</p> <p>16 A Fell out of my chair. No. I read it and</p> <p>17 probably shared that information with my chief of</p> <p>18 staff.</p> <p>19 Q That's Colonel Roberts, is my understanding?</p> <p>20 A Yes.</p> <p>21 Q And my understanding is he is, himself, a</p> <p>22 lawyer?</p> <p>23 A Yes.</p> <p>24 Q Were you seeking legal advice from him?</p> <p>25 A Not at that moment.</p>	<p style="text-align: right;">Page 25</p> <p>1 made you aware of Exhibit 1?</p> <p>2 A I believe I got something in the mail from</p> <p>3 EEOC.</p> <p>4 Q So you actually received the mail, opened it</p> <p>5 and became aware of the charge.</p> <p>6 A Yes.</p> <p>7 Q Did you do anything else with respect to</p> <p>8 Exhibit 1 after you received it, other than talking to</p> <p>9 either your personal attorney or the City Counselor's</p> <p>10 office, other than this brief conversation it sounds</p> <p>11 like you had with Colonel Roberts?</p> <p>12 A No, I didn't do anything with that.</p> <p>13 Q If I'm understanding your testimony</p> <p>14 correctly, the only thing you and Colonel Roberts</p> <p>15 discussed is what you should do with it?</p> <p>16 A Yes.</p> <p>17 Q And the decision was that what you should do</p> <p>18 with it was let an attorney know.</p> <p>19 A Right, and then go back and see what</p> <p>20 happened.</p> <p>21 Q And at some time did you become aware of</p> <p>22 John Castellano filing a second charge of</p> <p>23 discrimination?</p> <p>24 A Yes.</p> <p>25 Q The second charge of discrimination, would</p>

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<p style="text-align: right;">Page 26</p> <p>1 that be what I have Bates-labeled as Exhibit 2, which</p> <p>2 is alleged to have taken place on August 7th of 2017?</p> <p>3 A I'm assuming so because I was informed about</p> <p>4 a second suit I think from Korey. I'm not sure who</p> <p>5 told me about the second suit.</p> <p>6 Q And actually, I'm not talking about a</p> <p>7 lawsuit, I'm talking about this actual charge of</p> <p>8 discrimination. So you would have received this -- if</p> <p>9 it was file-stamped in October of '17, you would have</p> <p>10 received it sometime probably in October of '17.</p> <p>11 A Yes.</p> <p>12 Q And how did you become aware of the second</p> <p>13 charge? Did you also receive that in the mail or did</p> <p>14 somebody give it to you?</p> <p>15 A I believe so.</p> <p>16 Q Which one, received it in the mail or</p> <p>17 somebody gave it to you?</p> <p>18 A I believe I received it in the mail.</p> <p>19 Q So then what did you do when you received</p> <p>20 the second charge of discrimination?</p> <p>21 A Basically the same thing, just shared it</p> <p>22 with, you know, my chief of staff and the lawyer and</p> <p>23 put it away in the drawer.</p> <p>24 Q Did you request any investigation after the</p> <p>25 second charge?</p>	<p style="text-align: right;">Page 28</p> <p>1 charge.</p> <p>2 Q So having reviewed Exhibit 3, it refreshes</p> <p>3 your recollection that you've seen it before today; is</p> <p>4 that correct?</p> <p>5 A Correct.</p> <p>6 Q Did you become aware of the third charge the</p> <p>7 same way, you received it in the mail, you opened it</p> <p>8 and you read it?</p> <p>9 A I don't remember.</p> <p>10 Q Do you know what you did when you received</p> <p>11 the third charge?</p> <p>12 A Probably the same thing I did with the other</p> <p>13 charges, tuck it away and let's see what happens.</p> <p>14 Q Did you charge anybody to investigate the</p> <p>15 third charge of discrimination, Exhibit 3?</p> <p>16 A No.</p> <p>17 Q And why not?</p> <p>18 A Same reason. They were false charges, so I</p> <p>19 didn't see any reason. Investigate who, investigate</p> <p>20 what? I had no reason to investigate anybody. False</p> <p>21 charges, as far as I was concerned.</p> <p>22 Q Wasn't Deputy Castellano asking that you be</p> <p>23 investigated?</p> <p>24 A I guess that's what he was doing. I don't</p> <p>25 know.</p>
<p style="text-align: right;">Page 27</p> <p>1 A No.</p> <p>2 Q And why not?</p> <p>3 A I didn't see no need to.</p> <p>4 Q Why didn't you feel there was a need to</p> <p>5 investigate whether you had discriminated?</p> <p>6 MS. LEWIS: Object that it misstates</p> <p>7 testimony.</p> <p>8 BY MS. PETRUSKA:</p> <p>9 Q Subject to that, you can answer.</p> <p>10 A Ask me the question again.</p> <p>11 Q Why did you not believe there was a need to</p> <p>12 investigate this allegation of discrimination?</p> <p>13 A Well, because it wasn't true, so what was</p> <p>14 there for me to look into?</p> <p>15 Q And the other reason?</p> <p>16 A Same thing.</p> <p>17 Q And then at a certain point then you also</p> <p>18 received a third charge of discrimination, which I've</p> <p>19 marked as Exhibit 3, that relates to an incident that</p> <p>20 took place on 11/26 of '18; is that correct?</p> <p>21 A I guess. I'm not familiar with a third</p> <p>22 charge of discrimination.</p> <p>23 Q Let me give you a second. Take a second to</p> <p>24 look at that to see if it refreshes your recollection.</p> <p>25 A Okay. Okay, I'm somewhat familiar with this</p>	<p style="text-align: right;">Page 29</p> <p>1 Q All three charges accuse you of race and/or</p> <p>2 retaliation discrimination in terms of making</p> <p>3 promotions, correct?</p> <p>4 A Correct.</p> <p>5 Q And my understanding is you are the</p> <p>6 decision-maker in the sheriff's department in terms of</p> <p>7 making promotions; is that correct?</p> <p>8 A Correct.</p> <p>9 Q So basically he was accusing you of</p> <p>10 discriminating or retaliating against him, correct?</p> <p>11 A Correct.</p> <p>12 Q And my understanding is you testified a</p> <p>13 minute ago that they're false charges, so you denied</p> <p>14 discriminating against Deputy Castellano; is that</p> <p>15 correct?</p> <p>16 A That's correct.</p> <p>17 Q Did it make you angry that Deputy Castellano</p> <p>18 was accusing you of that kind of conduct?</p> <p>19 A Yeah, it ticked me off a little bit.</p> <p>20 Q And why was that?</p> <p>21 A Would you like to get accused of being</p> <p>22 racist?</p> <p>23 Q Sir, unfortunately, the reality today is I</p> <p>24 get to ask the questions, not you. Is that your</p> <p>25 answer, though? You answered with a question. If</p>

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<p>1 that's your answer, I'll move on. If you have another 2 answer, I'll let you answer again.</p> <p>3 A I'll answer again. No, I didn't like being 4 accused of something that I didn't do.</p> <p>5 Q Did you ever tell anybody that you were 6 going to make Castellano pay for falsely accusing you 7 of discrimination or retaliation, or words to that 8 effect?</p> <p>9 A No.</p> <p>10 Q Did you ever tell Deputy Castellano that you 11 were angry about the charges?</p> <p>12 A No.</p> <p>13 Q Did you ever tell anybody you were angry 14 about the charges?</p> <p>15 A I'm sure I did.</p> <p>16 Q Who did you tell you were angry about the 17 charges?</p> <p>18 A Probably like my wife, my family, maybe 19 people in the office. I don't know.</p> <p>20 Q When you say "people in the office," you 21 have a core staff that works in close proximity to you 22 in a master office suite; is that correct?</p> <p>23 A That's correct.</p> <p>24 Q Who are the people in the office? Who are 25 the other people that work in that master suite?</p>	<p>1 us, but as far as somebody on a permanent basis, it's 2 only been -- we went the first couple of years without 3 a secretary, and so the last couple of years has 4 basically been Gregg Christian.</p> <p>5 Q You said last couple years. So would that 6 be sometime in 2018 he started as the secretary?</p> <p>7 A I would say late 2018, possibly first part 8 of 2019, yes.</p> <p>9 Q And is Christianson (sic) also a deputy?</p> <p>10 A Yes.</p> <p>11 Q Does he have any rank or is he an unranked 12 deputy?</p> <p>13 A No, he's a nonranked deputy.</p> <p>14 Q Were you aware that the -- that there were 15 position statements filed in response to two of the 16 charges of discrimination?</p> <p>17 A I'm not understanding what you mean when you 18 say position statements.</p> <p>19 Q Let me do this. I'm going to pull one up. 20 Give me a second.</p> <p>21 I'm showing you now what's been marked as 22 Exhibit 4, which is a position statement, or what 23 lawyers call a position statement, that's dated 24 April 9th of 2019, directed to the EEOC.</p> <p>25 I'm going to scroll down real fast. If you</p>
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<p>1 A Steve Roberts, my chief of staff; Tim Haill, 2 my HR guy; Captain Hogan, my person that handles all 3 the financials. Basically those are the three -- 4 Gregg Christian, who acts as a secretary. He may not 5 have been in that position at the time. I'm sure 6 people in the office. I'm sure I expressed something 7 to them.</p> <p>8 Q Do you remember what you said to Mr. Roberts 9 about being angry about the allegations?</p> <p>10 A I don't remember specifically.</p> <p>11 Q How about Tim Haill?</p> <p>12 A I don't remember specifically what I said to 13 Tim.</p> <p>14 Q And it's Captain Hogan, H-O-G-A-N; is that 15 correct?</p> <p>16 A That's correct.</p> <p>17 Q What did you say to Captain Hogan?</p> <p>18 A I don't remember specifically what I said to 19 Captain Hogan.</p> <p>20 Q And then the secretary, it sounds like you 21 may have had different secretaries during your tenure. 22 So let me ask you first: Who have been the 23 secretaries in your office since you've been sheriff?</p> <p>24 A Well, there's only been the one. We've had 25 a host of people come in and answer the telephones for</p>	<p>1 look at the bottom of this, you'll notice that your 2 attorney, Korey Lewis, submitted it.</p> <p>3 MS. LEWIS: We're just seeing your folder. 4 I'm not seeing an exhibit pulled up. I don't know if 5 anybody else is having the same issue.</p> <p>6 THE WITNESS: That's all I see.</p> <p>7 MS. PETRUSKA: Are you seeing my master 8 folder with exhibits?</p> <p>9 MS. LEWIS: There you go.</p> <p>10 MS. PETRUSKA: Hold on just a second.</p> <p>11 BY MS. PETRUSKA:</p> <p>12 Q Do you see the exhibit now?</p> <p>13 A Yes, I see the bottom of it, Korey.</p> <p>14 Q Where it says Korey Lewis, Assistant City 15 Counselor?</p> <p>16 A Yes.</p> <p>17 Q Yeah, it was showing me something different. 18 So I was seeing the exhibit and assuming everybody was 19 seeing the same thing. Okay.</p> <p>20 Let me ask you this, Sheriff. Did you see 21 Exhibit 4 before it was submitted to the EEOC in April 22 of 2019? Let me get...</p> <p>23 A Probably. I don't remember.</p> <p>24 Q You're not saying you didn't see it, you're 25 just saying you don't have a present recollection of</p>

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<p>1 Q Did it say anything more than the two</p> <p>2 sentences quoted in this article?</p> <p>3 A No, it did not.</p> <p>4 Q So you would agree that you were elected on</p> <p>5 a platform of reforming a deeply dysfunctional</p> <p>6 department?</p> <p>7 A Yes.</p> <p>8 Q And so what did you think was dysfunctional</p> <p>9 about the department when you were running for</p> <p>10 sheriff?</p> <p>11 A Just about everything was dysfunctional</p> <p>12 about the department.</p> <p>13 Q Can you give me --</p> <p>14 A Yeah, I can give you something specific.</p> <p>15 The way that they operated, they move people from</p> <p>16 place to place without any consideration. People</p> <p>17 working at the sheriff's department were doing all</p> <p>18 kinds of things that they shouldn't have been doing.</p> <p>19 I don't know if you know the history of the sheriff's</p> <p>20 department, but we've had guys on drugs, we've had</p> <p>21 guys come to work drunk, we've had sexual harassment</p> <p>22 on the job. Just about everything that you could</p> <p>23 think of went on at the sheriff's department. And</p> <p>24 it's been properly -- if you go back through the</p> <p>25 newspapers, there's all kinds of stories about the St.</p>	<p>1 You had employees who would show up in the</p> <p>2 daytime and then disappear in the evening and vice</p> <p>3 versa. People who appeared in the evening, but you</p> <p>4 never saw them in the daytime, and those people should</p> <p>5 have been working a full eight-hour day. They were</p> <p>6 not.</p> <p>7 I could sit here and go through story after</p> <p>8 story. You had all kind of disciplinary issues going</p> <p>9 on, things that never should have been -- deputies</p> <p>10 would take the vehicles home with them and then use</p> <p>11 the vehicles for driving around drug dealers. Just</p> <p>12 stuff that should never have happened at the sheriff's</p> <p>13 department. That's why I refer to that as being a</p> <p>14 dysfunctional department.</p> <p>15 Q Did you consider the way that promotions</p> <p>16 were made to be dysfunctional and resolve to change</p> <p>17 that as well?</p> <p>18 A Yeah, that was kind of taken into some</p> <p>19 consideration, yes.</p> <p>20 Q What did you think -- what did you think was</p> <p>21 dysfunctional about Sheriff Murphy's promotion</p> <p>22 process?</p> <p>23 A Well, I don't think Sheriff Murphy really</p> <p>24 had any formal say-so in promotions because I don't</p> <p>25 think he knew enough about what was going on. That</p>
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<p>1 Louis sheriff's department. And I witnessed that. I</p> <p>2 witnessed that the three years I worked there.</p> <p>3 Q Anything else that you thought was</p> <p>4 dysfunctional about the sheriff's department that you</p> <p>5 wanted to change?</p> <p>6 A Yeah. Yes.</p> <p>7 Q What would that be?</p> <p>8 A I've done a lot of -- several things since</p> <p>9 I've been there. When they get ready to move a person</p> <p>10 from one department to another, there should be some</p> <p>11 kind of notification to that person so that that</p> <p>12 person can get their livelihood together, notify</p> <p>13 family that they're being moved maybe from one set of</p> <p>14 working hours, from maybe evenings to days or back and</p> <p>15 forth. That kind of thing is done on a regular basis</p> <p>16 without any kind of notification when you move people</p> <p>17 around.</p> <p>18 You gave assignments to people that had no</p> <p>19 real functioning progress to the department. For</p> <p>20 instance, they would give -- the holding cell requires</p> <p>21 only two people to supervise that holding cell.</p> <p>22 Sometime they would put seven people in the holding</p> <p>23 cell, and before the end of the day, five of those</p> <p>24 seven people would disappear, on occasion go to the</p> <p>25 ballgame, go to the tavern, get drunk.</p>	<p>1 was one of the main points. Murphy was not involved</p> <p>2 in the department like I am. So I think that was one</p> <p>3 thing. So you got people being moved and promotions</p> <p>4 and people being moved into places where they never</p> <p>5 should have been.</p> <p>6 Q Did you think unqualified people were being</p> <p>7 promoted under Murphy's tenure?</p> <p>8 A Yes.</p> <p>9 Q I know you've probably made a number of</p> <p>10 changes related to other dysfunctions you've seen in</p> <p>11 the department, but let me focus on transfers and</p> <p>12 promotions.</p> <p>13 What have you done since elected sheriff to</p> <p>14 change things to address issues you were seeing with</p> <p>15 transfers and promotions?</p> <p>16 A Probably the biggest thing when it comes to</p> <p>17 transfers and promotions -- well, a couple of things.</p> <p>18 I was about to say probably the biggest thing, I try</p> <p>19 not to transfer anybody from one department to another</p> <p>20 and/or -- especially for one time frame.</p> <p>21 Say, for instance, they're working nights,</p> <p>22 they're working days to nights without giving them a</p> <p>23 period of time to make that transition in their</p> <p>24 personal life. So what we've tried to institute is</p> <p>25 like a two-week period.</p>

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<p style="text-align: right;">Page 46</p> <p>1 Now, we don't always stick to that. Depends</p> <p>2 on the demand and how soon we've got to get somebody</p> <p>3 in a place, but we try not to just -- like Murphy did</p> <p>4 me. I came to work -- I was getting off on a Friday</p> <p>5 evening at 3:00 o'clock, and I got a letter open, and</p> <p>6 the letter said for me to report to the hospital crew</p> <p>7 Sunday night. Well, okay, I did what they told me.</p> <p>8 But I thought that was very unfair. So that's one of</p> <p>9 the things we've changed.</p> <p>10 We also, we don't -- I sit down, and before</p> <p>11 we make all of these changes, I've had several</p> <p>12 sitdowns and skull sessions with my supervisors. We</p> <p>13 try not to make a change, moving one person from one</p> <p>14 place to another, without getting both supervisors,</p> <p>15 the one that he's leaving and the one that he's going</p> <p>16 to, involved in whether or not that's a good move. So</p> <p>17 we try to get the supervisors involved.</p> <p>18 That I didn't see when Murphy was going on.</p> <p>19 Murphy and whoever in the office, as far as I could</p> <p>20 see, they made the changes, nobody else had any say-so</p> <p>21 to say about it. I try to get my people involved.</p> <p>22 And then, thirdly, I also try, we talk to</p> <p>23 the employees before we decide. I've had several</p> <p>24 times where we've started to move somebody, but that</p> <p>25 person was maybe in school or childcare came into</p>	<p style="text-align: right;">Page 48</p> <p>1 I don't think that's the way you operate.</p> <p>2 Q How did you know that Murphy didn't do those</p> <p>3 things? Were you a supervisor when he was --</p> <p>4 A I worked here.</p> <p>5 Q But were you a supervisor when he was the</p> <p>6 sheriff?</p> <p>7 A No.</p> <p>8 Q So do you know for a fact that he never</p> <p>9 talked to supervisors -- other supervisors before he</p> <p>10 made a promotion?</p> <p>11 A I don't know that for a fact.</p> <p>12 Q When you say you would talk to the parties</p> <p>13 involved, are the parties involved the supervisor --</p> <p>14 when you say you're going to talk to the parties</p> <p>15 involved in a promotion, who are the parties involved</p> <p>16 in a promotion you're talking to?</p> <p>17 A The parties involved would be the supervisor</p> <p>18 that he presently reports to and the supervisor that</p> <p>19 he would be going to, and then the employee</p> <p>20 themselves.</p> <p>21 Q So let me make sure I'm understanding. So</p> <p>22 if you're considering a promotion of somebody from</p> <p>23 deputy to sergeant, before you made that decision, you</p> <p>24 would talk to that deputy's current sergeant --</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 47</p> <p>1 play. So we try to consider those kind of things.</p> <p>2 One that just popped in my head. We wanted</p> <p>3 to move one deputy, and he's on dialysis, and he has</p> <p>4 to go certain days. So now we considered that. So we</p> <p>5 made some other move rather than mess with his days of</p> <p>6 going to dialysis.</p> <p>7 Those kind of things we try to look at and</p> <p>8 try to bring in that human factor. We don't just jump</p> <p>9 up and move people. That's the way it seemed to be</p> <p>10 when I was a deputy here. They did what they wanted</p> <p>11 to do without question.</p> <p>12 Q Let me ask you this. How do you believe</p> <p>13 your promotion process is different than Murphy's was?</p> <p>14 A Those examples, my promotion process, I take</p> <p>15 into consideration when I'm thinking about promoting a</p> <p>16 person, I do talk to those parties that are going to</p> <p>17 be involved. I'm not promoting a person to a position</p> <p>18 and I know the history of that person and know that</p> <p>19 that person didn't get along with the supervisor he's</p> <p>20 going to be reporting to. I think you consider those</p> <p>21 kind of things.</p> <p>22 I don't believe Murphy did that kind of</p> <p>23 stuff. Matter of fact, I know they didn't. Either</p> <p>24 you did what they told you to do or, as I know it has</p> <p>25 been said, if you don't like it, you go home. So, no,</p>	<p style="text-align: right;">Page 49</p> <p>1 Q -- correct?</p> <p>2 A Yes.</p> <p>3 Q And then you would talk to the lieutenant</p> <p>4 that would be supervising that sergeant, because if</p> <p>5 they're going to get promoted, the next level</p> <p>6 supervisor would be a lieutenant, correct?</p> <p>7 A Correct.</p> <p>8 Q And then you would talk to the employee</p> <p>9 themselves?</p> <p>10 A Yes.</p> <p>11 Q Is there anybody else you talk to as part of</p> <p>12 the process?</p> <p>13 A Yes.</p> <p>14 Q Who else do you talk to?</p> <p>15 A Always, always talk -- 99 percent of the</p> <p>16 time, I talk to the HR. I would talk to</p> <p>17 Captain Hogan. I would have to talk to HR. Of</p> <p>18 course, HR, the person's going to be moving and making</p> <p>19 record of that person moving from one place to the</p> <p>20 other, so I always talk to HR. And when I say HR, I</p> <p>21 can give you a name if you have to have a specific</p> <p>22 name.</p> <p>23 Q I was going to ask you that, so if you'd</p> <p>24 like to provide it, it saves me a question.</p> <p>25 A That specific name would be Tim Haill. Then</p>

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<p>1 I would also talk to Captain Hogan because, of course, 2 I have a -- you know, I have my employees and I have a 3 budget that I have to work from, and I have so many 4 people that I can slide in each place, so many 5 sergeants, so many lieutenants, so many captains, and 6 so I'm always talking to Captain Haill -- 7 Captain Hogan to see if I'm over the number I'm 8 supposed to have in a specific category, if I'm under, 9 or where are we, and can I move at this time, can I 10 not, blah, blah, blah. So it's kind of a whole 11 department kind of thing. 12 Sheriff is not doing any of this kind of 13 stuff in a bubble. There's usually two or three or 14 four people, even, you know, we go so far as to 15 include maybe both of the majors in our movement. 16 What do they think about it? Because this person may 17 be moving from one building to another. So, there 18 again, I want to get the input of Major Lammert, who's 19 over the Carnahan Building, Major George Harsley, 20 who's over the Civil Courts Building, and probably 21 most of the time I'm saying that before I made those 22 kind of moves, promotions, those two people would also 23 be included. 24 Q I want to be -- when you talk to Tim Haill 25 or Captain Hogan, are you getting their -- are you</p>	<p>1 That's been the reason for some of these guys. A 2 couple of them have actually turned down promotions 3 because they didn't want anything interfering. 4 So I talk -- I'll talk to the employee. 5 Some of them, when I talk about the responsibility of 6 the job, they just don't think that they want to be 7 entangled in all the responsibility of what it's going 8 to take. Their life as a sheriff deputy is more 9 comfortable now than if they were to become a 10 supervisor. 11 Q When you talk to the deputy, have you 12 already selected him or her as a finalist, so you're 13 going to the deputy and saying I'm considering you for 14 this promotion, do you want it? Or do you still have 15 three or four candidates in mind when you go to the 16 deputy? 17 A You're right. Usually I'll have still maybe 18 a couple of people still in mind, just in case. 19 Q When you go to the deputy, you might still 20 have several people in mind, but somebody surfaced as 21 the top of your list and you're asking them if they're 22 interested in the job before you make the final 23 selection. Am I understanding your testimony 24 correctly? 25 A Yes.</p>
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<p>1 getting a recommendation in terms of whether the 2 person should be promoted or not, or are you providing 3 them with information so that they can do the correct 4 administrative work? 5 A Both. If they have some input, 6 Captain Hogan's been here for a number of years, and 7 she knows the background and history on a deputy. 8 Same way with Haill, Sergeant Haill, same way with 9 Major Harsley and Major Lammert. Yes, I would be 10 seeking some input from those people, too, as to 11 whether or not they thought that was a good promotion 12 or it should or should not take place. 13 Q So let me make sure. When you talk to the 14 deputy you're considering for promotion, what purpose 15 is served by talking to that particular deputy? 16 A Basically to find out if that deputy wants 17 to be promoted. I've had several incidents, several 18 situations here where I actually had deputies turn 19 down promotions, and I'll give you a reason why some 20 of them turned down, because being promoted in the 21 sheriff's department is going to require more 22 responsibility, and some of these guys know that, and 23 they work a secondary job where they're making a 24 pretty good salary and they don't want to do anything 25 that's going to interfere with the secondary work.</p>	<p>1 Q And in your time as sheriff, who has told 2 you they didn't want a promotion? 3 A I've had Gary Jackson told me he didn't want 4 to be promoted. I've had my deputy, Ricky, 5 Ricky Phillips, who got his -- he's POST certified. 6 He's the only POST certified deputy I have. He did 7 not want to be promoted. Those are the two I can 8 think off the top of my head. 9 Q We're going to move on because I don't want 10 to keep you till midnight. But if you think of 11 somebody else, just say, hey, I remembered another 12 deputy that turned me down and we'll add it to the 13 record. 14 A Yes, ma'am. 15 Q Because I do understand you might not 16 remember everybody as you sit here right now. 17 Let me ask you, is Gary Jackson -- do you 18 prefer I use black and white to refer to the races or 19 African-American and Caucasian? 20 A Black and white. 21 Q Is Jerry Jackson black or white? 22 A Black. 23 Q And what about Ricky Phillips? 24 A White. 25 Q When your sheriff's department issued the</p>

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<p>1 statement that we saw a moment ago that's Exhibit</p> <p>2 8 and talked about a deeply dysfunctional department,</p> <p>3 did you think that part of the dysfunction that</p> <p>4 existed before you, that people were being promoted to</p> <p>5 jobs that they weren't qualified for?</p> <p>6 A Yes.</p> <p>7 Q And did you think that some of the</p> <p>8 dysfunction before you again was if people were being</p> <p>9 promoted to jobs based upon their race as opposed to</p> <p>10 their qualifications?</p> <p>11 A Maybe not in all cases.</p> <p>12 Q But you did think it was happening in some</p> <p>13 cases, if I understand your previous testimony,</p> <p>14 correct?</p> <p>15 A Yes.</p> <p>16 Q After the Post-Dispatch article came out,</p> <p>17 did you ever tell anybody that Castellano would pay</p> <p>18 for suing you, or, again, words to that effect?</p> <p>19 A He hasn't yet, no.</p> <p>20 Q In terms of the second lawsuit, it sounds</p> <p>21 like you said earlier that Korey gave you the second</p> <p>22 lawsuit and it was federal, so we might have had them</p> <p>23 accept service or anything like that. Do you remember</p> <p>24 how you learned of the second lawsuit, the federal</p> <p>25 one?</p>	<p>1 correctly now, what's been marked as Plaintiff's Depo</p> <p>2 Exhibit 27, and it's titled second amended complaint.</p> <p>3 And, Sheriff, I'm just asking, have you ever seen the</p> <p>4 second amended complaint?</p> <p>5 A I believe so.</p> <p>6 Q The end of the document is going to show</p> <p>7 that we filed this on January 10th of 2020. Do you</p> <p>8 remember approximately when you might have received</p> <p>9 the second amended complaint?</p> <p>10 A I don't remember.</p> <p>11 (Discussion off the record.)</p> <p>12 BY MS. PETRUSKA:</p> <p>13 Q So other than your attorney, did you talk to</p> <p>14 anybody about the second amended complaint whenever</p> <p>15 you received it?</p> <p>16 A I don't remember specifically talking about</p> <p>17 that second amended complaint.</p> <p>18 Q And what -- as it relates to the second</p> <p>19 amended complaint, so don't worry about previous</p> <p>20 iterations of the lawsuit, what is your understanding</p> <p>21 of what John Castellano is suing you for?</p> <p>22 A Are you talking about the second?</p> <p>23 Q Yes.</p> <p>24 A Suing me for racism is what I thought.</p> <p>25 Q That's your understanding of the complaint?</p>
Page 55	Page 57
<p>1 A I really don't.</p> <p>2 Q Let me ask it this way. Did you read the</p> <p>3 lawsuit when it was filed?</p> <p>4 A I probably did. Now, I'm thinking that once</p> <p>5 all of this stuff got started and I was talking to</p> <p>6 Korey, Korey informed me of a lot of stuff going on.</p> <p>7 Q We're not going to get into what she told</p> <p>8 you about. If she told you a lawsuit was filed and</p> <p>9 handed it to you, that's not necessarily privileged.</p> <p>10 So she's probably not going to jump up and down if you</p> <p>11 tell me that. But if you start telling me what you</p> <p>12 and her talked about after she handed you the lawsuit</p> <p>13 so that you could start preparing to defend it, she's</p> <p>14 going to jump up and down. And I'm not looking for</p> <p>15 her to do that, okay?</p> <p>16 A Right.</p> <p>17 Q If you remember her giving it to you, that's</p> <p>18 fine. If you don't remember how you learned about the</p> <p>19 federal lawsuit or how it was given to you, that's</p> <p>20 fine, too, just say I don't remember.</p> <p>21 A I don't remember.</p> <p>22 Q And then what I'm particularly interested</p> <p>23 in, though, is not how it started, but how it looks</p> <p>24 today.</p> <p>25 And I'm showing you, if this has been done</p>	<p>1 A Yeah. Yes.</p> <p>2 Q Is it also your understanding that he's</p> <p>3 suing you for retaliating against him because he</p> <p>4 complained about you making race-based employment</p> <p>5 decisions?</p> <p>6 A Yeah, I understand that part of it, too.</p> <p>7 Q Since you've been sheriff, how often have</p> <p>8 your employees been evaluated?</p> <p>9 A Everybody is instructed to evaluate their</p> <p>10 employees once a year.</p> <p>11 Q Are you required to review and sign off on</p> <p>12 the evaluations?</p> <p>13 A I'm not required to, but I do, though.</p> <p>14 Q Do you keep some kind of a log, then? My</p> <p>15 understanding of the policy is that employees are</p> <p>16 supposed to be evaluated annually on their hire</p> <p>17 anniversary?</p> <p>18 A Yes.</p> <p>19 Q Do you keep some kind of a log as to</p> <p>20 whether -- maybe not you personally, but an</p> <p>21 administrative assistant, do you keep some kind of a</p> <p>22 record to make sure your supervisors are evaluating</p> <p>23 people annually like they're supposed to do?</p> <p>24 A I don't keep a record, but they've been</p> <p>25 instructed to do that, and if it comes to my attention</p>

15 (Pages 54 to 57)

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<p>1 that they haven't done that, then everybody knows that</p> <p>2 there's something -- somebody is going to have to</p> <p>3 answer to the piper.</p> <p>4 Q So your expectation is that your supervisors</p> <p>5 evaluate their subordinates annually, that that be</p> <p>6 shown at least to you so that you have a sense that</p> <p>7 people are being evaluated as they're supposed to be.</p> <p>8 A Yes. I keep a copy of that evaluation.</p> <p>9 Q You have a copy?</p> <p>10 A Yes.</p> <p>11 Q So you have a copy of the evaluation. I'm</p> <p>12 assuming there are personnel files in the department</p> <p>13 as well; is that correct?</p> <p>14 A Yes.</p> <p>15 Q Is the evaluation also maintained in the</p> <p>16 personnel file?</p> <p>17 A Yes.</p> <p>18 Q I know you're one of those weird hybrid</p> <p>19 departments of the City. Does the City's HR</p> <p>20 department also keep a copy of your personnel files or</p> <p>21 are they exclusive to the sheriff's department because</p> <p>22 you're really not a City department, you're a county</p> <p>23 department?</p> <p>24 A Right. They're exclusive just to the</p> <p>25 sheriff's department.</p>	<p>1 Q And then I also saw something that was</p> <p>2 called an accelerated pay increase on the employee</p> <p>3 status forms. Can you explain to me what an</p> <p>4 accelerated pay increase is?</p> <p>5 A I'm not totally sure about this, but</p> <p>6 accelerated pay increase -- the sheriff has the</p> <p>7 prerogative to go above and beyond the two percent.</p> <p>8 And I think when we talk about -- when I think of the</p> <p>9 accelerated payment, that's what that is, if they get</p> <p>10 more than the two percent.</p> <p>11 And I think -- now, I would have to talk to</p> <p>12 Tammy Hogan, who keeps track of all of that specific</p> <p>13 stuff, but we've had a situation where one employee is</p> <p>14 doing the work that a supervisor should be doing, then</p> <p>15 that employee gets that accelerated pay increase.</p> <p>16 Q And then it sounds like the standard pay</p> <p>17 increase is two percent a year; is that correct?</p> <p>18 A That's correct.</p> <p>19 Q Now, if I'm doing an exceptional job, can I</p> <p>20 get -- if I'm doing an exceptional job, can I get an</p> <p>21 increase beyond the two percent? So can I get -- it</p> <p>22 sounds like your two percent may be a cost of living</p> <p>23 adjustment, everybody gets it?</p> <p>24 A Everybody, right, correct.</p> <p>25 Q Can I also get a merit increase as an</p>
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<p>1 Q So it sounds like there's a personnel file</p> <p>2 for each employee, and where are the personnel files</p> <p>3 maintained?</p> <p>4 A In what we call our outer office.</p> <p>5 Q And then you said that you keep a file of</p> <p>6 the evaluations. Where do you maintain the</p> <p>7 evaluations that you keep?</p> <p>8 A In my office.</p> <p>9 Q And so you have one for each deputy, or is</p> <p>10 this for the deputies you supervise?</p> <p>11 A I have a file for each deputy.</p> <p>12 Q Now, I noticed on some of the employee</p> <p>13 status forms there's a notation for a pay increase</p> <p>14 that talks about exceptional duty performance. What</p> <p>15 does that mean?</p> <p>16 A Well, some people have gotten, I think, some</p> <p>17 kind of stipend because they've gone above and beyond</p> <p>18 their work. Yeah. Whenever they go above and beyond,</p> <p>19 there's a possibility for them to get a stipend.</p> <p>20 Q So that's a stipend, it's not an actual</p> <p>21 annualized increase.</p> <p>22 A Right, no.</p> <p>23 Q So it's a one-time payment for going above</p> <p>24 and beyond the call of duty.</p> <p>25 A Correct.</p>	<p>1 employee of your department?</p> <p>2 A I think so, yes.</p> <p>3 Q And a merit increase would actually be an</p> <p>4 increase that annualizes over the entire year as</p> <p>5 opposed to this bonus; is that correct?</p> <p>6 A Well, the merit increase -- yes, you're</p> <p>7 correct.</p> <p>8 Q And then if I'm promoted to sergeant from</p> <p>9 deputy, do I get a standardized increase or does it</p> <p>10 depend? So if I increase a rank, do I get a</p> <p>11 five percent, ten percent or --</p> <p>12 A Yes, yes. You'll get some kind of increase</p> <p>13 and sometimes the amount of the increase depends on</p> <p>14 where you already are on your pay scale, based on the</p> <p>15 number of years you've been here.</p> <p>16 Q It's not a set if I'm promoted, I get a</p> <p>17 five percent increase or I get a ten percent increase.</p> <p>18 A No.</p> <p>19 Q Because you guys use a grade and step scale,</p> <p>20 correct?</p> <p>21 A Correct.</p> <p>22 Q So the increase I get may depend on where I</p> <p>23 am in terms of my grade and step as a deputy.</p> <p>24 A Correct.</p> <p>25 Q I've gotcha. I want to draw your attention,</p>

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<p>1 Sheriff, to one of the documents I'm hoping you have</p> <p>2 at this point, and that would be Exhibit 6, your</p> <p>3 January 3rd, 2017 manual.</p> <p>4 A I have that.</p> <p>5 Q This was produced to me by the City, and</p> <p>6 it's got Bates numbers of 1 to 75. I know they just</p> <p>7 gave me what you gave them, but I want to verify</p> <p>8 through you this is a complete copy of the</p> <p>9 January 3rd, 2017 sheriff's manual; is that correct?</p> <p>10 A Correct.</p> <p>11 Q And you promulgated the manual, because on</p> <p>12 page one it says Vernon Betts, correct?</p> <p>13 A Correct.</p> <p>14 Q Now, let me ask you this, because this is</p> <p>15 just a couple of days after you're sworn in. Did you</p> <p>16 just repromulgate Murphy's manual? You have a</p> <p>17 transition period. You know you've been elected and</p> <p>18 you know you're going to be sworn in. So did you</p> <p>19 repromulgate Murphy's manual with your name on it or</p> <p>20 did you create your own new manual to try and show</p> <p>21 that you were going to do things differently?</p> <p>22 A Well, this is the one, Exhibit 6 is Murphy's</p> <p>23 manual that I just determined that you use --</p> <p>24 Q Repromulgated?</p> <p>25 A Yeah. But because later on I did -- we did</p>	<p>1 what areas you're going to do appraisals on, which is</p> <p>2 on page 16. And then if you go to page 17, it talks</p> <p>3 about the completion of the performance appraisal.</p> <p>4 And then if you go one more page out, the</p> <p>5 procedure, it talks about by the third day of the</p> <p>6 month, every supervising officer will receive a list</p> <p>7 of all subordinates who report directly so that they</p> <p>8 know what evaluations they're supposed to do. Does</p> <p>9 that list go out?</p> <p>10 A By the third day of the month, each</p> <p>11 supervising officer will receive a list of all</p> <p>12 subordinates who report to such supervising officers</p> <p>13 and hiring -- ask me that question again. Did this</p> <p>14 procedure go out?</p> <p>15 Q Right. It sounds like according to the</p> <p>16 procedure, sergeants or lieutenants get a rolling list</p> <p>17 every month of these are the people we want you to</p> <p>18 evaluate.</p> <p>19 A No.</p> <p>20 Q Does that list go out?</p> <p>21 A Yeah, that kind of went out. We don't</p> <p>22 adhere specifically to that.</p> <p>23 Q So the list of people to be evaluated does</p> <p>24 not go out electronically somehow to remind people.</p> <p>25 But you're saying that people still do the</p>
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<p>1 do a new -- I think you got Exhibit 7.</p> <p>2 Q So at a later date, you look at the manual</p> <p>3 and you make the changes you want to make in it, but</p> <p>4 when you first take office, you say Murphy's -- I'm</p> <p>5 going to be a little bit snarky here, Murphy's law</p> <p>6 controls.</p> <p>7 A Yes.</p> <p>8 Q Murphy's law, isn't that where everything</p> <p>9 bad happens to you or something?</p> <p>10 A Yes.</p> <p>11 Q You keep his rules and regulations into</p> <p>12 effect until you get a sense of what's going on in the</p> <p>13 office.</p> <p>14 A Yes, ma'am.</p> <p>15 Q And what I want to do is direct you to</p> <p>16 Section 5 of the manual, it's at page 15, whether you</p> <p>17 look at the Bates number or the actual page number.</p> <p>18 A I got it.</p> <p>19 Q And it talks about the appraisal process.</p> <p>20 A Yes.</p> <p>21 Q Do you see that?</p> <p>22 A Yes, I have it.</p> <p>23 Q So it talks about, like you said, that the</p> <p>24 performance appraisal is done annually during the</p> <p>25 month of their anniversary of hire. It talks about</p>	<p>1 evaluations, is my understanding, correct?</p> <p>2 A Yes.</p> <p>3 Q I've got you now.</p> <p>4 If you go to subparts four and five of</p> <p>5 Section E, the procedure, it does say that the final</p> <p>6 evaluation goes to the sheriff or his designee by the</p> <p>7 end of the month, unless there is an extension.</p> <p>8 Since you've been sheriff, do you receive a</p> <p>9 number of evaluations at the end of each month?</p> <p>10 A I receive those evaluations throughout the</p> <p>11 course of the month because everybody basically tries</p> <p>12 to give me their evaluation of that employee on that</p> <p>13 employee's anniversary date.</p> <p>14 Q You're not getting them all as one stack at</p> <p>15 the end of the month, you're getting them as they come</p> <p>16 in during the month.</p> <p>17 A Yes.</p> <p>18 Q The bottom line is you're getting a number</p> <p>19 of evaluations during the course of the month, and</p> <p>20 that's how you know that people are being evaluated</p> <p>21 like they're supposed to be.</p> <p>22 A Yes.</p> <p>23 Q It says: The final step in the process is</p> <p>24 the sheriff will review all completed performance</p> <p>25 evaluations.</p>

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<p style="text-align: right;">Page 66</p> <p>1 And my understanding of your previous</p> <p>2 testimony is you do that.</p> <p>3 A Yes, ma'am.</p> <p>4 Q Because the other part talks about you can</p> <p>5 have a designee, but you don't designate somebody to</p> <p>6 do that, you do it yourself, is my understanding.</p> <p>7 A Yes, ma'am, I do that myself.</p> <p>8 Q And then it talks about a process that can</p> <p>9 be followed for below standards. If there's a below</p> <p>10 standard overall evaluation, do you follow that</p> <p>11 process that's set forth in paragraph six? We're now</p> <p>12 on page 19.</p> <p>13 A Yes, ma'am.</p> <p>14 Q So basically it says in terms of below</p> <p>15 standards, you can look at it and you can overrule a</p> <p>16 below standards rating. Have you ever overruled a</p> <p>17 below standards rating?</p> <p>18 A Yes.</p> <p>19 Q How many times would you say you've done</p> <p>20 that in your three years and nine months as sheriff?</p> <p>21 A Just a few times.</p> <p>22 Q Do you remember any of the deputies you've</p> <p>23 done it for?</p> <p>24 A No, I don't remember the deputies</p> <p>25 specifically, but I remember the reasons, the</p>	<p style="text-align: right;">Page 68</p> <p>1 A I do.</p> <p>2 Q And you would have considered -- I'm</p> <p>3 assuming, but I'm not trying to put words in your</p> <p>4 mouth, you would consider the appraisal process to be</p> <p>5 particularly important if you thought you were</p> <p>6 inheriting a dysfunctional department, right?</p> <p>7 A Yes, ma'am.</p> <p>8 Q You want this written feedback to see how</p> <p>9 your deputies are doing and who you need to improve or</p> <p>10 let go, right?</p> <p>11 A Yes, ma'am.</p> <p>12 Q Let me ask you this: Since you've been</p> <p>13 sheriff, how many deputies have you had to terminate?</p> <p>14 A I've terminated several deputies.</p> <p>15 Q Can you give me -- several is a range. Has</p> <p>16 it been more than five but less than ten?</p> <p>17 A Yes. Well, let me think for a minute.</p> <p>18 Q Sure, sure, take your time.</p> <p>19 A I'm thinking right off the top of my head, I</p> <p>20 can tell you about five. Five come to mind right off</p> <p>21 the top of my head.</p> <p>22 Q And just let me -- since this isn't a</p> <p>23 termination case, the five that you can think of, how</p> <p>24 many are black and how many are white?</p> <p>25 A I think all of them were black.</p>
<p style="text-align: right;">Page 67</p> <p>1 incident, the reasoning that I did.</p> <p>2 Q And what would be the reason that you would</p> <p>3 overrule a below standards evaluation?</p> <p>4 A When that supervisor grades that person and</p> <p>5 that grading is not consistent with other facets of</p> <p>6 the evaluation, then I may overrule a specific section</p> <p>7 of that evaluation.</p> <p>8 And that example would be if you are -- I'm</p> <p>9 very picky about time, being on time, and your</p> <p>10 attendance. And if a person has perfect attendance,</p> <p>11 they shouldn't be graded poorly. But that has</p> <p>12 happened a couple of times, so I've overruled that.</p> <p>13 Q So someone showing up regularly and doing</p> <p>14 their job and getting a poor performance evaluation,</p> <p>15 you might look into that and supersede the</p> <p>16 individual's supervisor's poor performance evaluation;</p> <p>17 is that correct?</p> <p>18 A That's correct.</p> <p>19 Q If you look at -- if you go back to</p> <p>20 section -- or page 15, section one, it says: The</p> <p>21 purpose of the appraisal is to promote effective</p> <p>22 personnel management in the sheriff's department.</p> <p>23 And do you agree that an annual performance</p> <p>24 appraisal helps you to effectively manage the</p> <p>25 personnel in your department?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q And then you referenced it before. I'm</p> <p>2 going to have you pick up now what's been marked as</p> <p>3 Exhibit 7 for purposes of deposition.</p> <p>4 A Yes.</p> <p>5 Q And this is a manual that's dated March 16th</p> <p>6 of 2018. Is this the manual that you rewrote after</p> <p>7 you had been in office for a period of time and then</p> <p>8 promulgated as your policies and procedures?</p> <p>9 A Yes.</p> <p>10 Q And I'm just going to first ask you, this</p> <p>11 particular manual is Bates labeled 971 to 1,078. Is</p> <p>12 it your complete manual?</p> <p>13 A Yes.</p> <p>14 Q If you go to the same section five, which I</p> <p>15 believe is still at the same corresponding pages, so</p> <p>16 page 15 of the actual manual, the Bates label 986,</p> <p>17 there is the performance appraisal process. I've</p> <p>18 taken a look at it and I'm certainly giving you as</p> <p>19 much time as you need to look at it, but it's my</p> <p>20 understanding that that particular performance</p> <p>21 appraisal process did not change when you did</p> <p>22 revisions to the manual. It's the same one that's</p> <p>23 been in effect since you've been elected, correct?</p> <p>24 A Pretty much. I believe so, yes.</p> <p>25 Q Like I said, if you want to take your time</p>

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<p>1 and take a look at it, feel free, and then you can</p> <p>2 answer again, but that's what it looked like to me.</p> <p>3 So even when you change the manual in '18,</p> <p>4 you still require an annual performance appraisal for</p> <p>5 each of your employees, correct?</p> <p>6 A Correct.</p> <p>7 Q And those would be in the personnel files,</p> <p>8 correct?</p> <p>9 A Correct.</p> <p>10 Q Or in your office.</p> <p>11 A Correct, in my office.</p> <p>12 Q You said you keep a copy as well, right?</p> <p>13 A Yes.</p> <p>14 Q So there's at least two copies somewhere.</p> <p>15 A I believe so, yeah.</p> <p>16 Q I'm going to represent to you, Sheriff, that</p> <p>17 in terms of the folks that have been promoted to</p> <p>18 sergeant, we only received an evaluation from Cannon</p> <p>19 from 2017, a single evaluation on Felicia Davis that I</p> <p>20 can't tell you the date, because it's not a complete</p> <p>21 evaluation, and an evaluation on Anthony Evans dated</p> <p>22 2018.</p> <p>23 If I'm understanding your previous testimony</p> <p>24 correctly, there should be more evaluations in all of</p> <p>25 those personnel files, correct?</p>	<p>1 time that you've been in office. So you're saying</p> <p>2 from the period of time from 2017 to today, everybody</p> <p>3 that's had an annual -- has hit their annual hiring</p> <p>4 date should have four evaluations in their file, those</p> <p>5 being 2017, '18, '19 and '20. I understand we haven't</p> <p>6 finished '20 yet, so some of them might not have them,</p> <p>7 correct?</p> <p>8 A That's correct, but I can tell you already</p> <p>9 that I know, there again, the lack of efficiency of</p> <p>10 the entire department, I know that there are people</p> <p>11 who don't have all four evaluations from the time I</p> <p>12 started till now.</p> <p>13 Q Are you disciplining your supervisors if</p> <p>14 they don't give you the evaluations you expect from</p> <p>15 them?</p> <p>16 A There has been verbal discipline.</p> <p>17 Q Would you have a sense of how many</p> <p>18 evaluations you're missing at this point in time?</p> <p>19 A No, I don't at this particular time because</p> <p>20 I think within the last two years, and I've been</p> <p>21 pretty adamant about getting these evaluations, I've</p> <p>22 got a boatload of those things that I've looked</p> <p>23 through sitting on my desk as we speak. And so to me</p> <p>24 it seems like they began to really adhere to what I've</p> <p>25 been trying to get them to do, and that is make sure</p>
Page 71	Page 73
<p>1 A Should be.</p> <p>2 Q And what I would ask you to do as part of</p> <p>3 this deposition is to look to see where those are so</p> <p>4 that they can be produced to us as part of this</p> <p>5 lawsuit, okay? You don't have to do it personally.</p> <p>6 I'm assuming you'll direct somebody in your office to</p> <p>7 do it.</p> <p>8 A I will look, but if you don't have them</p> <p>9 already, they're probably not there.</p> <p>10 Q I will represent to you, and, again, the</p> <p>11 documents will speak for themselves, in terms of</p> <p>12 Castellano's file, we have evaluations from 2001,</p> <p>13 2002, 2003, 2004, 2005, 2006, 2009, 2010, 2011, 2017</p> <p>14 and 2018. That sounds like it's more consistent with</p> <p>15 your policy, correct?</p> <p>16 A Sounds like it, yes.</p> <p>17 Q Now, I'm not going to ask you to account for</p> <p>18 anything that happened before you were elected</p> <p>19 sheriff, so like why Castellano doesn't have</p> <p>20 evaluations for '07, '08 and '09. So '17 we have one</p> <p>21 and '18 we have one. Can you account for why he would</p> <p>22 not have an evaluation for 2019?</p> <p>23 A I don't know that he doesn't have one for</p> <p>24 2019. He should.</p> <p>25 Q He should. Again, I'm only focusing on the</p>	<p>1 you give me an evaluation on every employee, every</p> <p>2 period. Every time their anniversary date comes up,</p> <p>3 I'm looking for an evaluation.</p> <p>4 I can tell you now that that has been the</p> <p>5 subject of some of our supervisory meetings because I</p> <p>6 haven't gotten that from everybody. But as we move</p> <p>7 along in my tenure, I think my supervisor will tell</p> <p>8 you that the sheriff is getting more and more dogmatic</p> <p>9 about them following through with the paperwork that</p> <p>10 they're supposed to do, and that we may not be too</p> <p>11 far, as you just talked about, disciplinary.</p> <p>12 Actually, we may not be too far from some of the</p> <p>13 supervisors being disciplined because they haven't</p> <p>14 carried through with their work.</p> <p>15 Q Would you be surprised to learn if</p> <p>16 Sergeant Haill testified that he hasn't been evaluated</p> <p>17 since 2014?</p> <p>18 A No, I wouldn't be surprised.</p> <p>19 Q And why is that? Wouldn't you expect your</p> <p>20 lieutenant to be evaluating your sergeant?</p> <p>21 A Well, in the case of Sergeant Haill, I don't</p> <p>22 think we've established specifically as to who would</p> <p>23 evaluate him. And so in his case I think that is</p> <p>24 actually the case. With him being in the position</p> <p>25 that he's in and in the office, I don't think I have</p>

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<p>1 directly assigned that responsibility to anybody and, 2 therefore, Sergeant Haill probably had not been 3 evaluated, at least not on paper. But as we say that, 4 I evaluate Sergeant Haill every day. 5 Q But not on paper, correct? 6 A Not on paper. 7 Q But if I'm understanding your previous 8 testimony, these performance evaluations are an 9 important tool for you to understand how your deputies 10 are functioning, and your overall practice is you 11 expect them to be turned in as required by your 12 policy, correct? 13 A Correct. 14 Q You said that you had warned some of your 15 supervisors that they had failed to turn in 16 evaluations. Who are the supervisors that you warned 17 about failing to turn in timely performance 18 appraisals? 19 A All of them. Twenty-two supervisors. 20 Q So supervisors who are evaluating, if I'm 21 understanding correctly, so sergeants would evaluate 22 deputies that are under their command, correct? 23 A Correct. 24 Q Lieutenants would evaluate sergeants. 25 A Correct.</p>	<p>1 A H-A-R-S-L-E-Y. 2 Q Just like it sounds, then. I want to 3 include, then, the supervisor, current supervisor and 4 the potential future supervisor. So there's a team of 5 people you've talked to related to virtually every 6 promotion decision you've made since you became 7 sheriff; is that correct? 8 A That's correct. 9 Q And then in terms of evaluations, do you 10 review them when you're considering somebody for 11 promotion? 12 A In terms of the appraisal? 13 Q Yes. So the performance evaluations we were 14 talking about -- 15 A No, I don't. 16 Q -- before the break. 17 A I don't review those when I'm considering 18 somebody for a promotion. 19 Q You don't pull them and review them before 20 the promotion. 21 A No, I don't. 22 Q Now, to move this along, my understanding is 23 the sheriff's department is divided into different 24 units; is that correct? 25 A That's correct.</p>
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<p>1 Q Captains would evaluate the lieutenants. 2 A Correct. 3 Q You have two majors, so I'm assuming the 4 majors evaluate the captains? 5 A Correct. 6 Q Do you evaluate the major or does 7 Colonel Roberts? 8 A I evaluate the majors. 9 MS. PETRUSKA: This may be a good -- we're 10 about an hour and a half, hour and 40 minutes. I know 11 you mentioned needing to use the restroom. All of us 12 have probably had our morning routine that requires 13 drinking something, so this may be a good time to take 14 a first quick bathroom break. Do we want to take a 15 quick break and try and come back within five minutes, 16 or does somebody need a little bit more time? 17 THE WITNESS: That's fine with me. 18 (A short recess was taken.) 19 BY MS. PETRUSKA: 20 Q Sheriff, I want to go back. You said that 21 when you do a promotion, 99 percent of the time you 22 talk to Tim Haill, Captain Hogan, Major Lammert, and 23 was it Major Harmen in Civil Courts? 24 A Major George Harsley. 25 Q Could you spell that for Jo Ann, please?</p>	<p>1 Q And if I'm understanding the manual 2 correctly, those units currently are the courtroom 3 unit, the service unit, the office support unit, the 4 transportation and jail unit, the hospital security 5 unit, security, criminal records and, finally, a 6 property unit; is that correct? 7 A Pretty much, yes. 8 Q Can you think of any other unit there is in 9 the sheriff's department? 10 A I don't know if you've mentioned the outside 11 service unit. 12 Q Would that be the same thing as what's 13 called the service unit? 14 A That might be what you're calling service 15 unit. I don't know. 16 Q I think that's what the manual called it, 17 but I might have skipped a word. That could be very 18 well true, too. 19 So can you briefly tell me -- so courtroom 20 unit, that's just what -- 21 (Discussion off the record.) 22 BY MS. PETRUSKA: 23 Q So courtroom unit are the deputies we see as 24 we enter the courtroom and in the courtroom, they're 25 providing security during the day; is that correct?</p>

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<p>1 A That's correct.</p> <p>2 Q Were you aware that a number of his</p> <p>3 companies had declared bankruptcy?</p> <p>4 A I was aware of that.</p> <p>5 Q Did the bankruptcies give you any reason to</p> <p>6 be of concern in terms of hiring Mr. Roberts as your</p> <p>7 chief deputy or your undersheriff?</p> <p>8 A No, it did not.</p> <p>9 Q If you had known about this \$35 million</p> <p>10 judgment entered against Mr. Roberts, et al., would</p> <p>11 that have been of concern to you when you were hiring</p> <p>12 him as your undersheriff?</p> <p>13 A Probably not.</p> <p>14 Q And why not?</p> <p>15 A Because that's his personal business. I</p> <p>16 don't think it necessarily will interfere with</p> <p>17 business that I want him to conduct here at the</p> <p>18 sheriff's department.</p> <p>19 Q When you're doing a background check on</p> <p>20 deputies, I know you look at their criminal background</p> <p>21 check, but do you do a credit check to see if they</p> <p>22 might have a bad credit history that might indicate</p> <p>23 some reason for concern?</p> <p>24 A No, I don't do a credit check.</p> <p>25 Q You said that there are two majors,</p>	<p>1 I talk to before I talk to Joe Neal, and he'll say,</p> <p>2 Vernon, we need to talk to Joe Neal. But he's usually</p> <p>3 the first person, and that's good to have that legal</p> <p>4 mind right at hand. And he's involved in just about</p> <p>5 every facet of the job, just like everybody else.</p> <p>6 Q Do you consult with him then, too, when you</p> <p>7 make promotion decisions?</p> <p>8 A Yes.</p> <p>9 Q So, again, virtually every promotion that</p> <p>10 you've made, you've talked to him about it before it's</p> <p>11 been made.</p> <p>12 A Yes.</p> <p>13 Q How many captains are there?</p> <p>14 A Three.</p> <p>15 Q What are their areas of responsibility or</p> <p>16 what do they supervise?</p> <p>17 A Captain Hogan oversees the office in</p> <p>18 general, all those in financing and the property room.</p> <p>19 Captain O'Toole is out of juvenile, he oversees the</p> <p>20 juvenile operation.</p> <p>21 And I said three captains and I kind of</p> <p>22 misspoke there. One of my captains just passed away,</p> <p>23 so by reflex I was referring to Don Robinson, who was</p> <p>24 the captain over the courthouse -- over the civil</p> <p>25 courts, who works under George Harsley, but he just</p>
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<p>1 Major Lammert and Harsley, correct?</p> <p>2 A Correct.</p> <p>3 Q What is Major Lammert's responsibilities?</p> <p>4 A To oversee the Carnahan Building and all the</p> <p>5 connecting operations.</p> <p>6 Q And I believe you said that Harsley had the</p> <p>7 corresponding duties in the civil building, correct?</p> <p>8 A Correct.</p> <p>9 Q So you have a major placed in each one of</p> <p>10 your courtroom operation buildings.</p> <p>11 A Correct.</p> <p>12 Q I know you talked about Steve Roberts having</p> <p>13 a role in property sales that your office handles. I</p> <p>14 assume that as the undersheriff, he assumes</p> <p>15 responsibility when you're not available for whatever</p> <p>16 reason, but what other duties does the undersheriff</p> <p>17 have?</p> <p>18 A In advising me on just about everything that</p> <p>19 we do. He's involved in everything that goes through</p> <p>20 the office like, you know, if we're disciplining</p> <p>21 anybody there, he sits and he takes notes. A lot of</p> <p>22 the different meetings that I have to go to, he</p> <p>23 accompanies me on those meetings. Like I said, he</p> <p>24 advises me on anything legal that we have in the</p> <p>25 sheriff's department. He's probably the first person</p>	<p>1 passed away a month or so ago.</p> <p>2 Q I'm assuming you're planning on filling that</p> <p>3 position, though; is that correct?</p> <p>4 A Yes.</p> <p>5 Q So I understand at the moment there's not</p> <p>6 three captains, but your complement of captains is</p> <p>7 three.</p> <p>8 A Yes, ma'am.</p> <p>9 Q Then how many lieutenants are there?</p> <p>10 A I had that information right here. I think</p> <p>11 I've got seven lieutenants.</p> <p>12 Q Generally what is a lieutenant's function</p> <p>13 that makes it different than a sergeant or a captain,</p> <p>14 for example?</p> <p>15 A Well, a lieutenant, of course, rank has a</p> <p>16 little more power than the sergeant, but less than the</p> <p>17 captain. The lieutenant, we try to have one in each</p> <p>18 building, and the lieutenant is to assist those</p> <p>19 sergeants in their daily operations.</p> <p>20 Q Am I understanding you correctly, then? You</p> <p>21 said one in each building. Are there seven buildings</p> <p>22 that you guys cover, and so seven sergeants, or are</p> <p>23 there fewer buildings but you have a day shift and an</p> <p>24 afternoon shift, so you have seven lieutenants?</p> <p>25 A Correct. We have only two buildings, but</p>

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<p>1 me to be here.</p> <p>2 Q And let me clarify, though. Do you think</p> <p>3 that's because their person didn't get in or do you</p> <p>4 think it's because of your race?</p> <p>5 A Probably more so that person didn't get in.</p> <p>6 Q Do you know -- if you know, do you know who</p> <p>7 the judges were backing to get in?</p> <p>8 A No, I don't.</p> <p>9 Q Has any judge -- Kim Gardener talks about it</p> <p>10 openly, that she thinks that there's somewhat of a</p> <p>11 race-based conspiracy against her as the first</p> <p>12 African-American or black female in her job. Have you</p> <p>13 felt that with respect to the judges? You're the</p> <p>14 first black sheriff in the city, correct?</p> <p>15 A No, I'm not.</p> <p>16 Q Who was the first black sheriff in the city?</p> <p>17 A Benjamin Goins.</p> <p>18 Q I remember that name, but in terms of like a</p> <p>19 real memory, Sheriff Murphy is the only one I</p> <p>20 remember.</p> <p>21 A Yeah.</p> <p>22 Q So you didn't come in as the first black</p> <p>23 sheriff, so you don't have that playing out in your</p> <p>24 role.</p> <p>25 A No, I was the second black sheriff.</p>	<p>1 precipitator of that whole move, thinking that he</p> <p>2 would be the one that they would appoint, from what I</p> <p>3 heard.</p> <p>4 Q So before he was elected sheriff, he tried</p> <p>5 to make that happen when Goins was sheriff?</p> <p>6 A No. This was just --</p> <p>7 Q So he was already sheriff, but he thought if</p> <p>8 he could get them to make it an appointed position he</p> <p>9 wouldn't have to run every four years.</p> <p>10 A I guess.</p> <p>11 Q I've gotcha now. Is that why you thought it</p> <p>12 was different when they did it to you is because</p> <p>13 Murphy supported the move to have an appointed</p> <p>14 sheriff?</p> <p>15 A Yes.</p> <p>16 Q And you did not. You believe the sheriff</p> <p>17 should be elected?</p> <p>18 A I do.</p> <p>19 Q Again, I think you referenced all other</p> <p>20 jurisdictions in the state. In all other</p> <p>21 jurisdictions the sheriff is an elected position,</p> <p>22 isn't it?</p> <p>23 A All except for St. Louis County, St. Louis</p> <p>24 County.</p> <p>25 Q You talked before that you had given all of</p>
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<p>1 Q Do you feel like there are some judges who</p> <p>2 don't want you to succeed in your role because you're</p> <p>3 African-American?</p> <p>4 MS. LEWIS: I would again object to the</p> <p>5 relevance.</p> <p>6 THE WITNESS: Probably. I don't know if</p> <p>7 they're still here.</p> <p>8 BY MS. PETRUSKA:</p> <p>9 Q Has any judge said or done anything that</p> <p>10 caused you to -- to you, obviously, that caused you to</p> <p>11 form that opinion?</p> <p>12 A Yes.</p> <p>13 Q And what was done to you that led you to</p> <p>14 believe that a judge might have a race based bias</p> <p>15 against you?</p> <p>16 A When I took office, the judges decided that</p> <p>17 they would go to Jeff City to get a bill passed to</p> <p>18 make this an appointed position.</p> <p>19 Q Had they ever tried to do that when Murphy</p> <p>20 was sheriff?</p> <p>21 A Yes.</p> <p>22 Q So they had gone to Jeff City to try to get</p> <p>23 an appointed position with him, too?</p> <p>24 A Yeah, but I think Murphy was the</p> <p>25 precipitator. From what I understand, he was the</p>	<p>1 your supervisors an oral admonishment that they needed</p> <p>2 to get in the written performance evaluations. Have</p> <p>3 you committed that to writing with any of your</p> <p>4 supervisors? Have you given them a written reprimand</p> <p>5 or anything more in terms of discipline because of</p> <p>6 failure to provide performance evals?</p> <p>7 A No, I have not.</p> <p>8 Q And then in broad strokes, what percentage</p> <p>9 of your sheriff's department is black employees, what</p> <p>10 percentage white employees, and to the extent</p> <p>11 applicable, other races?</p> <p>12 A Fifty-three percent of my department is</p> <p>13 black and 47 percent of my department is white.</p> <p>14 Q We talked a minute ago about the personnel</p> <p>15 files and where they're maintained. Have you</p> <p>16 promulgated any policy related to the proper</p> <p>17 maintenance of personnel files?</p> <p>18 A No, I have not. It's kind of understood</p> <p>19 that the HR has a set of files and then the sheriff</p> <p>20 has a set of files.</p> <p>21 Q Let me ask it another way. I know this is</p> <p>22 what's -- so police departments may have police</p> <p>23 manuals, but they then also have, you're probably</p> <p>24 familiar with them, special or general orders for very</p> <p>25 specific areas of functioning. Is the manual</p>

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<p>1 sheriff's file?</p> <p>2 A Pretty much anything like that would still</p> <p>3 go in the HR file.</p> <p>4 Q There'd still be an HR copy. So there's</p> <p>5 still two versions of that, okay.</p> <p>6 When new deputies are hired, you mentioned</p> <p>7 it before, how are they trained?</p> <p>8 A How are they trained?</p> <p>9 Q Yes.</p> <p>10 A They're trained by the person that they are</p> <p>11 going to be working with. So say today, just today we</p> <p>12 have a new employee, he's going to be working in the</p> <p>13 security unit. When you come into the Carnahan</p> <p>14 Building, you're going to see deputies sitting there</p> <p>15 at the desk. Well, that new employee is going to be</p> <p>16 sitting there with another deputy that's been sitting</p> <p>17 there for years, that's got that experience, and that</p> <p>18 person is responsible for training that deputy.</p> <p>19 Q So it sounds like at least you have a</p> <p>20 training -- it may be the training program or it may</p> <p>21 be a component, where a new deputy shadows an</p> <p>22 experienced deputy that's the training officer for</p> <p>23 that person.</p> <p>24 A Right. Initially. Now, we do have formal</p> <p>25 training where --</p>	<p>1 Q No, no, I'm sorry. That was not a clear</p> <p>2 question. Let me reask it and clarify it. Was he one</p> <p>3 of the experienced deputies that was providing</p> <p>4 training to new deputies when -- in this formalized</p> <p>5 program when you became sheriff?</p> <p>6 A No.</p> <p>7 Q To your knowledge, had he ever trained new</p> <p>8 hires as part of the formalized training program?</p> <p>9 A Not to my knowledge.</p> <p>10 Q And so it would be your testimony since he</p> <p>11 never did it during your tenure that he didn't provide</p> <p>12 new employee training the first time new employees</p> <p>13 were trained after you became sheriff.</p> <p>14 A Correct.</p> <p>15 Q Do all the employees of the sheriff's</p> <p>16 department have email?</p> <p>17 A Do they all have email?</p> <p>18 Q Yes. An email address through the sheriff's</p> <p>19 department or access to it.</p> <p>20 A No, I think only my officers have email</p> <p>21 address.</p> <p>22 Q So let me ask it this way: When you need to</p> <p>23 communicate something to the entire sheriff's</p> <p>24 department, how do you do that?</p> <p>25 A The supervisors, we send out a memo.</p>
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<p>1 Q What's your formal training program?</p> <p>2 A So each deputy is required to do 160 hours</p> <p>3 of training, and they will go over to the St. Louis</p> <p>4 police department. It's four hours a night, five</p> <p>5 nights a week for four weeks, and they go and they</p> <p>6 cover the basics for being a St. Louis sheriff deputy.</p> <p>7 I mean, from talking about how you use your gun, your</p> <p>8 mace, the rules, the regulations, just a general</p> <p>9 training that they would get from, not us, but from</p> <p>10 the St. Louis police department.</p> <p>11 Q So do police officers provide that training</p> <p>12 or do some of your deputies provide that training?</p> <p>13 A The police department provides the bulk of</p> <p>14 the training. I think there are one or two segments</p> <p>15 that my deputy, like my lieutenant, that would be</p> <p>16 another responsibility. We have -- throughout the</p> <p>17 course of the year, we have several periods of</p> <p>18 training. Like even today, everybody's taking their</p> <p>19 gun training. But we've had mace training. We have</p> <p>20 several deputies who have become instructors in those</p> <p>21 areas, like your mace, your tasers, that kind of</p> <p>22 stuff. We provide that in-house training.</p> <p>23 Q Was John Castellano part of the new employee</p> <p>24 training when you became sheriff?</p> <p>25 A No, he was not. He was already a deputy.</p>	<p>1 Everybody has a mailbox and everybody gets a posted</p> <p>2 memo, as we call it, posted memo, when we want</p> <p>3 everybody to know something and/or I have the phone</p> <p>4 numbers -- I should have -- I have the phone numbers</p> <p>5 of all my employees, all my deputies, and they should</p> <p>6 have my phone number, several of them. And so we try</p> <p>7 to communicate via that apparatus, the phone, but as</p> <p>8 far as in-house operations, everybody has a mailbox</p> <p>9 and when we want people to know, they get a memo in</p> <p>10 their mailbox.</p> <p>11 Q So you guys don't have an all-staff email</p> <p>12 send at this point, but if you want to communicate</p> <p>13 something to everybody in writing, you will put a memo</p> <p>14 in every deputy's box.</p> <p>15 A Correct.</p> <p>16 Q Now, I also understand that you guys do roll</p> <p>17 calls; is that correct?</p> <p>18 A Correct.</p> <p>19 Q And my understanding is that there are all</p> <p>20 employee roll calls and then there might be -- there</p> <p>21 are court roll calls, is that correct, courthouse roll</p> <p>22 calls?</p> <p>23 A Correct. There are roll calls basically</p> <p>24 every day for the court group. And then all the other</p> <p>25 departments, the only time they participate in a roll</p>

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<p>1 A Yeah, yeah.</p> <p>2 Q So there's four people that you've promoted</p> <p>3 to lieutenant.</p> <p>4 A Right. Okay. I just overlooked him.</p> <p>5 Right.</p> <p>6 Q And so let me ask it this way. For Davis,</p> <p>7 where is she assigned as a lieutenant?</p> <p>8 A She's a lieutenant over the Civil Courts</p> <p>9 Building.</p> <p>10 Q And how about Roop?</p> <p>11 A Dawn Roop is the lieutenant over the</p> <p>12 Carnahan Building.</p> <p>13 Q And how about Hogan?</p> <p>14 A Hogan is the lieutenant over outside</p> <p>15 service.</p> <p>16 Q And Gamache?</p> <p>17 A Mike Gamache is lieutenant over</p> <p>18 transportation.</p> <p>19 Q And then -- so if I'm remembering the</p> <p>20 numbers correctly, the three other lieutenants have</p> <p>21 been there since before you took office.</p> <p>22 A Yes.</p> <p>23 Q I'm going to represent to you that we have</p> <p>24 records that show that there have been 12 people</p> <p>25 promoted from deputy to sergeant. Does that sound</p>	<p>1 was promoted to lieutenant on January 8th of 2018, so</p> <p>2 about seven or eight months later. How is it that she</p> <p>3 gets promoted so quickly?</p> <p>4 A My need to try to fill those spots, to make</p> <p>5 sure I'm getting the confluence with my shop that I</p> <p>6 need. There was an opening there.</p> <p>7 Q How had the opening -- how had the opening</p> <p>8 become available in the lieutenant position? Did</p> <p>9 somebody die, retire?</p> <p>10 A Yeah. I think that lieutenant spot was --</p> <p>11 his name escapes me. We had a lieutenant that</p> <p>12 retired. It will come to me, but that's how that spot</p> <p>13 came open. We had a lieutenant that retired.</p> <p>14 Korey -- I had a lieutenant that I wasn't</p> <p>15 happy with. Korey might be able to help me on this.</p> <p>16 I had a lieutenant that I wasn't happy with because,</p> <p>17 remember, Korey, he couldn't do the time sheets. Do</p> <p>18 you remember that story that included my brother and</p> <p>19 blah, blah, blah?</p> <p>20 MS. LEWIS: I remember the situation. I do</p> <p>21 not remember the name.</p> <p>22 THE WITNESS: The name? Okay. Lynette, I'm</p> <p>23 sorry, I can't --</p> <p>24 BY MS. PETRUSKA:</p> <p>25 Q But that position came open due to a</p>
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<p>1 correct?</p> <p>2 A That could be.</p> <p>3 Q And we're going to go over each one of them.</p> <p>4 Let me ask you this: So Davis is promoted</p> <p>5 to sergeant, according to records, on May 23rd of</p> <p>6 2017. Do you have any reason to dispute that?</p> <p>7 A Felicia Davis was promoted from -- yes.</p> <p>8 Yeah. No, I don't dispute that. And we said</p> <p>9 promoted. Actually, she was already acting sergeant</p> <p>10 when I got here, so I don't really consider that --</p> <p>11 I've never been a proponent of the word "acting."</p> <p>12 Either you're doing it or you're not. And so Felicia</p> <p>13 actually was acting sergeant when I got here, and so</p> <p>14 we just eliminate that word acting.</p> <p>15 Q So you made her a sergeant because she was</p> <p>16 acting in the capacity, you don't like acting, and so</p> <p>17 if somebody's acting, they should have a position, so</p> <p>18 you made her a sergeant.</p> <p>19 A That's how I feel. She was already doing</p> <p>20 the job.</p> <p>21 Q Do you have a time in rank requirement</p> <p>22 before somebody can be promoted from one rank to the</p> <p>23 next?</p> <p>24 A No, I don't.</p> <p>25 Q So records show that Davis, Felicia Davis,</p>	<p>1 retirement.</p> <p>2 A Yes.</p> <p>3 Q Now I'm going to refer you back to your</p> <p>4 manuals, both Exhibits 6 and 7. And you're aware that</p> <p>5 there are promotion processes defined in both of your</p> <p>6 manuals; is that correct?</p> <p>7 A Correct.</p> <p>8 Q And that process or that policy is set out</p> <p>9 at Section 4 in both Exhibit 6 and Exhibit 7, correct?</p> <p>10 A Correct.</p> <p>11 Q And are you familiar with the policy as it's</p> <p>12 defined in your manual?</p> <p>13 A I am.</p> <p>14 Q And it's my understanding that you don't</p> <p>15 follow the policy; is that correct?</p> <p>16 A That's correct.</p> <p>17 MS. LEWIS: Objection. Argumentative.</p> <p>18 BY MS. PETRUSKA:</p> <p>19 Q Why don't you follow the policy?</p> <p>20 A Because I don't have to.</p> <p>21 Q Why do you say that you don't have to?</p> <p>22 A Because the manual tells me I don't have to.</p> <p>23 Q Let me ask it this way, then: Why would you</p> <p>24 promulgate a policy that explains how you're going to</p> <p>25 do promotions if you don't use it?</p>

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1 A It's a guide. We need guidelines, but that
 2 don't mean I have to adhere strictly to the guideline.
 3 Q Have you ever used or followed the policy
 4 that's set forth in Exhibit 6 or Exhibit 7 to make a
 5 promotion during your tenure as sheriff?
 6 A I don't believe I have.
 7 Q Would you agree that the policy, Section 4,
 8 is the same whether I look at Exhibit 6 or Exhibit 7,
 9 correct?
 10 A Correct.
 11 Q And so let me ask you this: When you take
 12 office, you put your name on Sheriff Murphy's manual
 13 and say we're going to continue to follow his
 14 policies. And I get that, you haven't had a chance to
 15 look at them, so you're going to do what's been done
 16 before. But by the time you get to Exhibit 7, why
 17 would you have a promotion policy that you would put
 18 in your manual and tell people was going to be how you
 19 were going to promote people if you already knew you
 20 weren't going to use it?
 21 A Well, I didn't know I wasn't going to use
 22 it. I just didn't use it.
 23 Q By then you'd been in office for a year and
 24 three months and you had never used it, correct?
 25 A Right. And at the time I was making those

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1 promotions, I didn't see where the policy was the tool
 2 that I wanted to steer my guidance on on making that
 3 promotion.
 4 Q I didn't mean to cut you off.
 5 A I don't think the policy was what I wanted
 6 to use to steer me on making that promotion.
 7 Q So why didn't you write a different policy
 8 to let deputies know how you were going to make
 9 promotions?
 10 A Because I can tell them how I'm going to
 11 make promotions, which I've done.
 12 Q What have you told them about how you're
 13 going to make promotions?
 14 A Just like we said earlier in this
 15 conversation, it's noted. It's noted out there that
 16 promotions, there are openings. You can write me a
 17 letter, tell me what you think your qualifications are
 18 that give you the merit to get that position. So
 19 that's what we've done. We've had people come in, sit
 20 down and talk to me. They come in and talk to me
 21 about their merit, and so I can discuss that merit
 22 with them. I don't necessarily have to have a policy
 23 that's going to dictate.
 24 Q Why didn't you just take it out of your
 25 policy manual when you updated it in March of 2018?

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1 MS. LEWIS: Objection. Asked and answered.
 2 THE WITNESS: That's probably the plan.
 3 We're probably going to do that. Just haven't gotten
 4 around to it.
 5 BY MS. PETRUSKA:
 6 Q Do you know why a policy was first put into
 7 the policy manual for promotion -- actually, strike
 8 that whole question, it's bad.
 9 Do you know why a promotion section was put
 10 into the manual when it was?
 11 A No, I don't know why.
 12 Q Were you ever told that the sheriff's
 13 department developed a written promotion policy
 14 because of the previous lawsuit we've talked about?
 15 A You know, I just lost you all. I clicked on
 16 something. What do I need -- I'm sorry, Lynette.
 17 Q We can hear you if you can't hear us.
 18 (Discussion off the record.)
 19 BY MS. PETRUSKA:
 20 Q So the question pending is: Were you ever
 21 told that the policy was put in place because of the
 22 previous lawsuit we talked about? I believe it was
 23 the one where you mentioned -- no, I went too far back
 24 in my own notes.
 25 A I can tell you no.

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1 Q Tyrone Williams, I guess, was involved.
 2 A I was never told that that policy was put in
 3 place because of that lawsuit.
 4 Q So you knew the policy existed before you
 5 were there, but you don't know why it existed before
 6 you were there.
 7 A Right.
 8 Q And I just want to check on a couple of
 9 things. So you have never created an eligibility
 10 list.
 11 A Correct.
 12 Q You have never done written testing as part
 13 of a promotion process; is that correct?
 14 A Correct.
 15 Q Do you review any documents as part of the
 16 promotion process, whether it's tied to the policy or
 17 not?
 18 A No, I don't.
 19 Q The written policy, I'm sorry.
 20 A No, I don't.
 21 Q So you don't look at the discipline record,
 22 the past performance evaluations, anything like that
 23 to get a sense of the deputy before you make a
 24 promotion.
 25 A I have a sense already when I consider that

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<p>1 person, and usually in my conversation with people in 2 the office, like Tim Haill, if that person has had any 3 kind of disciplinary action, Tim is pretty good at 4 saying, hey, you know this person did such and such 5 and such and such and such and such.</p> <p>6 Q I'm going to ask this, because it will 7 eliminate -- when I go through each of the individual 8 promotions, it will eliminate this question for each.</p> <p>9 So when you've considered promoting somebody 10 from deputy to sergeant in each of those 12 times that 11 we're going to talk about shortly, you have never 12 pulled the personnel file to get a sense of their 13 discipline record, their performance evaluations, what 14 training certificates might be in there.</p> <p>15 A You're right. I never pull the file.</p> <p>16 Q Like I said, I won't ask that question 12 17 times, then.</p> <p>18 Have you ever formally waived the promotion 19 policy set forth in Section 5 of your manual?</p> <p>20 A When you say formally waived.</p> <p>21 Q Right.</p> <p>22 A No, I've never formally waived the policy. 23 I guess informally, I've ignored the policy. I think 24 that's what we're talking about.</p> <p>25 Q And that's what I'm asking about. So is</p>	<p>1 that. So they say what they want to say.</p> <p>2 Antoine Cannon was working in a position, and when I 3 came on as sheriff, he wasn't or nobody else was 4 automatically promoted just because they had some kind 5 of relationship with me. I think we've discussed how 6 he became promoted. If not, we can always discuss 7 that issue.</p> <p>8 Q We're going to get into each individual 9 ones, because we just talked broad scope about the 10 process.</p> <p>11 What kind of a relationship did 12 Antoine Cannon have with you?</p> <p>13 A A pretty cordial relationship. I knew him 14 well, like I knew several other of the -- a lot of the 15 deputies. I worked here as a deputy, so a pretty 16 cordial relationship with a lot of the deputies.</p> <p>17 Q Did he work on your campaign?</p> <p>18 A Yes, he did.</p> <p>19 Q Did you socialize with him? I don't mean 20 like were you cordial to him when you saw him in the 21 halls, but would you go out for dinner, a beer 22 together? Was he was in your home, were you in his 23 home?</p> <p>24 A No. I don't socialize with any of my 25 deputies pretty much.</p>
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<p>1 there any document or memo that would say that, you 2 know, for this promotion or from this point going 3 forward, we're waiving or not following this policy?</p> <p>4 A No.</p> <p>5 Q Did you promise anybody a promotion before 6 you were elected sheriff?</p> <p>7 A No.</p> <p>8 Q And that would include Antoine Cannon, 9 correct?</p> <p>10 A That would include Mr. Cannon.</p> <p>11 Q Did you ever hear that he was going around 12 bragging that if you were elected sheriff, he would be 13 promoted to sergeant?</p> <p>14 A I'm sure he and several other folks probably 15 did that.</p> <p>16 Q Do you know who the other several folks 17 were?</p> <p>18 A No. I'm just sure that kind of stuff 19 happens. I'm sure people make those -- Lynette, just 20 off the top of my head I'm kind of laughing because I 21 had one deputy that never even got hired, but he put 22 it in the St. Louis America that he was going to be 23 the new HR guy. That was Pat Hill.</p> <p>24 So you get that kind of stuff going on, 25 people thinking that they're going to do this and do</p>	<p>1 Q That was going to be my next question again. 2 I think I'm going to let you start doing both ends of 3 this.</p> <p>4 So there's nobody in the -- you don't -- 5 you're not a person that socializes with your 6 subordinates. You draw the line.</p> <p>7 A Lynette, now, when we say socialize, if 8 there's something special, one of my deputies calls me 9 and says hey, my birthday, so and so, we're going to 10 be down, I may, I may, I may, but it ain't like every 11 weekend guys are going to be hanging out down at the 12 bar and I'm going down there. No, I don't do that. I 13 don't -- I don't go out with my kids, and I don't go 14 out with my employees. I'm just trying to draw you a 15 picture of the kind of guy that I am.</p> <p>16 Q And that's what I'm trying to understand. 17 By socialize, I don't mean like if somebody's 18 celebrating 40 years in the sheriff's department and 19 the sheriff's department holds a big party for him and 20 a number of people go and you're one of those people, 21 or something significant happens in their life, like 22 they get married. I'm really talking more about the 23 informal stuff that would signify you're friends as 24 opposed to work colleagues. And that doesn't happen.</p> <p>25 A No.</p>

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<p>1 Q Would it be of concern to you -- for you to</p> <p>2 learn that your deputies were bragging about them</p> <p>3 being promoted by you if you didn't tell them that?</p> <p>4 A That they were being --</p> <p>5 Q That they were bragging that they were going</p> <p>6 to be promoted by you when you didn't tell them that.</p> <p>7 Would that of concern to you?</p> <p>8 A Yeah, it would be a concern to me.</p> <p>9 Q And, one, because it's not true, it sounds</p> <p>10 like, correct?</p> <p>11 A Correct.</p> <p>12 Q And the other, I'm assuming, but again,</p> <p>13 correct me if I'm wrong, another thing would be that</p> <p>14 if they're running around bragging that you're going</p> <p>15 to promote them if you're elected, it shows poor</p> <p>16 judgment.</p> <p>17 A It certainly does. They don't know</p> <p>18 Vernon Betts.</p> <p>19 Q You didn't know that Cannon was doing that.</p> <p>20 Did you hear any deputies that had said that if you</p> <p>21 were elected, they were going to be promoted and stop</p> <p>22 it?</p> <p>23 A I don't doubt that Cannon did that because</p> <p>24 there are a couple of different times that he and I</p> <p>25 had some conversation about his employment and this</p>	<p>1 remember.</p> <p>2 Q Did you ever have a conversation with him</p> <p>3 that he shouldn't be telling people he's going to be</p> <p>4 promoted?</p> <p>5 A No, I don't know if I ever said that to him.</p> <p>6 Q Did you have any issues or problems with</p> <p>7 Cannon as it relates to his employment before you</p> <p>8 promoted him?</p> <p>9 A No.</p> <p>10 Q And did you make any representations to the</p> <p>11 employees of the department about how you would make</p> <p>12 promotions if you were elected sheriff? And I'm not</p> <p>13 talking now about a deputy that claims that you</p> <p>14 promised him anything. I mean, you're running for</p> <p>15 sheriff and you're telling all kinds of people what</p> <p>16 you're going to do if you're elected.</p> <p>17 A Right.</p> <p>18 Q What I'm talking about here is as a group,</p> <p>19 did you ever make any representations that say if I'm</p> <p>20 elected as sheriff, I'll do da, da, da as it relates</p> <p>21 to promotions to make sure we've got the best people</p> <p>22 for the jobs or words to that effect?</p> <p>23 A I'm probably sure I did.</p> <p>24 Q Do you recall what any kind of</p> <p>25 representation you made?</p>
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<p>1 and that and, you know, I knew we had conversation</p> <p>2 about it, but I never gave anybody the idea that this</p> <p>3 is what's going to happen to you when I get there,</p> <p>4 because I don't work that way.</p> <p>5 Q What conversations did you have with Cannon</p> <p>6 about his employment?</p> <p>7 A Well, Cannon is a pretty smart guy, and</p> <p>8 Cannon -- couple degrees, and Cannon had ideas about</p> <p>9 the department -- he was already working here, right?</p> <p>10 Yeah.</p> <p>11 Q Yes.</p> <p>12 A So he had the ideas about what the</p> <p>13 department should do this and you should do that and</p> <p>14 all that. So we had those kind of conversations. But</p> <p>15 me promising him? No, there was never any promises</p> <p>16 made because that ain't the way I operate.</p> <p>17 Q Actually, what I want to focus on, so</p> <p>18 excluding conversations you might have had with him</p> <p>19 about ideas he had for the department, you said you</p> <p>20 talked to him a couple times about his employment.</p> <p>21 I'm focusing specifically. Did you have any issues or</p> <p>22 problems with Cannon that you were talking to him</p> <p>23 about his employment?</p> <p>24 A And when I say talking to him about his</p> <p>25 employment, no, nothing specifically. I can't even</p>	<p>1 A No, I don't recall specifically. So much</p> <p>2 going on before I became sheriff, and people that</p> <p>3 wanted to be part of that team, I don't recall</p> <p>4 specifically what I might have said to who. But I can</p> <p>5 assure you I probably said something to somebody about</p> <p>6 something. I don't know.</p> <p>7 Q Did you ever tell -- again, this would be in</p> <p>8 broad strokes, not making promises to individuals --</p> <p>9 but did you ever tell folks that if you were elected</p> <p>10 sheriff, you would follow the manual policy to make</p> <p>11 sure that promotions were fair and the best person for</p> <p>12 the job got it, or words to that effect?</p> <p>13 A I don't know if I've ever said that.</p> <p>14 Q Did you ever tell the employees -- or did</p> <p>15 you ever tell your constituency, to include employees</p> <p>16 of the sheriff's department, that if you were elected</p> <p>17 sheriff, you would have no problem with them</p> <p>18 unionizing?</p> <p>19 A I know I never said that. Although I'm --</p> <p>20 Q And on that one you're clear that that was</p> <p>21 never said.</p> <p>22 A I don't know if I -- I'm pretty sure that I</p> <p>23 didn't say that because I know that we don't need a</p> <p>24 union here, but I am pro union. So that's why I'm</p> <p>25 saying I wouldn't say 100 percent that I didn't say</p>

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<p>1 something like that, but right now, we don't need a 2 union here at the sheriff's department.</p> <p>3 Q Do you remember having a conversation with 4 John Castellano after you were elected about him 5 wanting to unionize?</p> <p>6 A I don't recall.</p> <p>7 Q Again, you're not saying it didn't happen, 8 you're saying as we sit here today, you don't have a 9 present recollection.</p> <p>10 A Right, I don't remember. John Castellano 11 and I, we've never talked.</p> <p>12 Q Again, you're anticipating my next question. 13 I'm going to close my computer and let you ask my 14 questions and you can just answer them yourself, okay?</p> <p>15 A Sorry, sorry.</p> <p>16 Q It will make my job easier. Right. You and 17 John Castellano have been opponents in the sheriff's 18 race; is that correct?</p> <p>19 A Correct.</p> <p>20 Q Do you and him have a cordial relationship 21 after the elections are over?</p> <p>22 A We don't.</p> <p>23 Q And if I'm understanding your previous 24 testimony, you and him have never spoken personally?</p> <p>25 A In the four years I've been here, he has</p>	<p>1 to prepare for your deposition today?</p> <p>2 A I didn't do a whole lot. I had talked with 3 Korey.</p> <p>4 Q Did you review any documents?</p> <p>5 A Actually, no. You know, when I say review, 6 I did this morning look at -- I think the exhibits 7 that you were going to have, Korey, I looked at those 8 exhibits this morning.</p> <p>9 Q So the only thing you've done to prepare for 10 your deposition is we sent you four exhibits that were 11 a little bit lengthy, and you looked at them and you 12 had communications with Korey.</p> <p>13 A Right.</p> <p>14 Q And, again, I don't want to know the 15 substance. When did you communicate with Korey? And 16 I just want to know how long?</p> <p>17 A I communicated with Korey --</p> <p>18 Q About your deposition, obviously. If you 19 talked to her about something else, I don't care.</p> <p>20 A Was that last week, Korey? Last Friday? 21 Last Friday.</p> <p>22 Q How long?</p> <p>23 A Wasn't too long. I guess 30 minutes. 24 Wasn't that long.</p> <p>25 Q And when you promoted Lieutenant Davis to</p>
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<p>1 spoken to me one time.</p> <p>2 Q And when was that?</p> <p>3 A I think it was the other day at the election 4 board when we were all filing, you know, a few months 5 ago.</p> <p>6 Q Would you not consider John as a sergeant 7 because he's ran against you for office? Is that a 8 disqualifying factor?</p> <p>9 A No, that's not a qualifying factor.</p> <p>10 Q Disqualifying factor.</p> <p>11 A No, that's not a disqualifying factor.</p> <p>12 Q So even though he's run against you, if he's 13 the best person for the job, you would give him the 14 promotion; is that correct?</p> <p>15 A I would.</p> <p>16 MS. PETRUSKA: Let's take a little bit 17 longer lunch. I'm about to get into another section 18 again, so it's a good time to take a break. So let's 19 take a little bit longer lunch break if you want. 20 Everybody's at home.</p> <p>21 (Discussion off the record.) 22 (A short recess was taken.)</p> <p>23 BY MS. PETRUSKA:</p> <p>24 Q Sheriff, again, I'm not talking about 25 communications with your attorney, but what did you do</p>	<p>1 lieutenant, who else did you consider for that 2 promotion?</p> <p>3 A Lieutenant Davis promoted to -- I don't 4 think anybody. I don't think I had a whole lot of 5 options there.</p> <p>6 Q So did you attend a roll call -- roll calls, 7 I guess I should say, since there's the two court 8 buildings -- in the court buildings shortly or 9 immediately after you were elected sheriff? Did you 10 attend the first roll calls to introduce yourself, et 11 cetera?</p> <p>12 A Yes.</p> <p>13 Q Did you tell the deputies at the courthouse 14 roll call that there are a lot of racists still here 15 that need to leave and not to F with you?</p> <p>16 A I don't know if I --</p> <p>17 Q Or words to that effect?</p> <p>18 A -- I don't know if I used that language, but 19 I'm sure I addressed the issue of there being racist 20 folks here because that seemed to be the whole issue 21 with me running for sheriff, the whole issue of me 22 being elected sheriff, and I'm going to come in and 23 fire all the white folks. That was what was 24 propagated, from what I understand. So I thought it 25 was best to clear that air right off the bat.</p>

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<p>1 Q So did you say anything about your plans to</p> <p>2 fire anybody?</p> <p>3 A I don't believe I had to stress that. I</p> <p>4 don't believe I did.</p> <p>5 Q Did you think there were any specific</p> <p>6 deputies in the sheriff's department that were racist?</p> <p>7 A Yes.</p> <p>8 Q And who were the deputies that you thought</p> <p>9 were racist?</p> <p>10 A I don't know.</p> <p>11 Q You had specific people in mind but you</p> <p>12 don't know who they were?</p> <p>13 A I didn't have any specific people in mind.</p> <p>14 I know that there had to be some shades of racism,</p> <p>15 that's what seemed to be talked about all the time, me</p> <p>16 firing white folks and all that kind of stuff, bull</p> <p>17 crap.</p> <p>18 Q Do you know who said if you were elected,</p> <p>19 all the white people would be fired?</p> <p>20 A I don't know who said it.</p> <p>21 Q Did you look at John Castellano while you</p> <p>22 made that statement about racism in the department?</p> <p>23 A Did I look at him?</p> <p>24 Q Yes.</p> <p>25 A I'm sure I didn't. Why would I?</p>	<p>1 than just the general atmosphere. Lynette, you got</p> <p>2 people walking around here thinking they can do</p> <p>3 anything they want to do whenever they get ready.</p> <p>4 That's been the mantra. That's been the motif of this</p> <p>5 sheriff's department that people can do whatever they</p> <p>6 want to, and those days are long gone.</p> <p>7 Q What were you trying to address as it</p> <p>8 related to the atmosphere?</p> <p>9 A That we're not going to continue with the</p> <p>10 same kind of philosophy, the same kind of attitude</p> <p>11 that we've had in the past where people can do</p> <p>12 whatever they want to do, say whatever they want to</p> <p>13 say, go wherever they want to go, get into anything</p> <p>14 they want to get into and there not be some kind of</p> <p>15 ramifications for it.</p> <p>16 Q Do you remember -- it sounds like you've had</p> <p>17 only a limited number of all-staff meetings. Do you</p> <p>18 remember in what time frame you made that comment</p> <p>19 about you could fire people whenever you wanted?</p> <p>20 A I sure don't.</p> <p>21 Q Did you look at John Castellano when you</p> <p>22 made that comment?</p> <p>23 A No, I'm sure I didn't.</p> <p>24 Q Did you say during that communication words</p> <p>25 to the effect that one of the people who knows this,</p>
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<p>1 Q That was going to be my next question. So</p> <p>2 you're still anticipating them.</p> <p>3 Did you ever tell the employees at an</p> <p>4 all-employee roll call that you can fire whoever you</p> <p>5 want whenever you want, or words to that effect?</p> <p>6 A Probably, yes, probably did.</p> <p>7 Q I'm sorry?</p> <p>8 A Yes, probably did say that.</p> <p>9 Q What was the reason or context of telling</p> <p>10 people that they could be fired whenever you wanted?</p> <p>11 A In your sheriff manual on -- let me find it.</p> <p>12 Q Your employees are employees at will, right?</p> <p>13 A Right.</p> <p>14 Q Is that what you're referencing?</p> <p>15 A That's what I was going to reference, yes.</p> <p>16 Q So -- but let me ask it this way: Had</p> <p>17 something come up in the department that in an</p> <p>18 all-staff meeting you wanted to remind your employees</p> <p>19 that they were at-will employees?</p> <p>20 A Did you say did something come up?</p> <p>21 Q Yes. Had something frustrated you, had the</p> <p>22 deputies done something that you wanted to remind them</p> <p>23 they were at-will and so I guess they better behave</p> <p>24 themselves, or words to that effect?</p> <p>25 A Nothing in particular had come up, other</p>	<p>1 meaning you can fire whoever you want, won't even look</p> <p>2 at you?</p> <p>3 A No. Why would I say something like that?</p> <p>4 No, no. I don't have to try to intimidate anybody,</p> <p>5 Lynette.</p> <p>6 Q So you wouldn't try to intimidate your</p> <p>7 employees. And it looks like your lunch is coming.</p> <p>8 You would not try to intimidate your</p> <p>9 employees.</p> <p>10 A Lynette, 26 years at Ameren as a supervisor.</p> <p>11 I know what power and authority I have. I don't have</p> <p>12 to try to flaunt it, throw it around. I don't have to</p> <p>13 do that.</p> <p>14 Q I'm sorry. In addition to your education</p> <p>15 role, you were also at Ameren for a period of time?</p> <p>16 A I worked for Ameren for 30 years, Lynette.</p> <p>17 Q What position did you hold at Ameren?</p> <p>18 A I retired as a supervisor in the information</p> <p>19 technology function, and my responsibility was to</p> <p>20 print and mail bills. I had 40 employees under me,</p> <p>21 and I've been supervisor for 26 years at Ameren.</p> <p>22 Q Teaching, Ameren, and sheriff's department.</p> <p>23 Three employers, not two, like I thought.</p> <p>24 A Yes, yes.</p> <p>25 Q Have you ever told the employees at a roll</p>

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<p>1 call that if they don't support your 2020 run for 2 sheriff they would be fired?</p> <p>3 A No, I have not. Boy, I'd like to know who's 4 saying that.</p> <p>5 Q Before you became sheriff -- and I want to 6 separate this from the questions I asked before about 7 promising people promotions -- after you were elected 8 sheriff but before you took office, did you ever talk 9 to any of the deputies about their careers or 10 advancement within the sheriff's department?</p> <p>11 A No. Well, I hesitate. I don't know, maybe, 12 maybe not. Because I have a lot of -- a lot of 13 people, Lynette, thought that when Vernon Betts got in 14 office, that they were going to be going places, and 15 it hasn't panned out that way.</p> <p>16 Q After you became sheriff, have you 17 approached individual deputies and asked them where 18 they see themselves in the department or going in the 19 department or words to that effect?</p> <p>20 A No, no, I haven't. I don't want anybody 21 getting excited about doing something that ain't going 22 to happen.</p> <p>23 Q Let me be more specific. Did you ever talk 24 to Sergeant Haill after you became sheriff about where 25 he'd like to see himself in your department?</p>	<p>1 Louis American that he was going to be the new HR guy. 2 Now, that was the thinking, but I didn't promise 3 Pat Hill or anybody else that that was going to 4 happen. I don't make those promises. I don't control 5 life.</p> <p>6 Q If I'm understanding your previous 7 testimony, you were considering putting Pat Hill --</p> <p>8 A Right. I was considering putting Pat Hill 9 in that position.</p> <p>10 Q What, if anything, do you remember talking 11 to Haill about in terms of where you wanted him to be 12 in your sheriff's department?</p> <p>13 A I don't remember talking to Tim about where 14 I wanted him to be. He's in HR, he's doing a heck of 15 a great job, and I think, as I've tried to -- he's 16 doing a great job and he's where I think he -- he's 17 where I want him to be right now --</p> <p>18 Q Did you ever -- I'm sorry.</p> <p>19 A -- right now he's where I want him to be.</p> <p>20 Q Did you ever talk to him about moving him?</p> <p>21 A About moving him out of that position?</p> <p>22 Q Yes.</p> <p>23 A Yes.</p> <p>24 Q What did you talk to him about in terms of 25 moving Haill out of the position?</p>
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<p>1 A Did I ever talk to Sergeant Haill about 2 where I would like to see him in my department?</p> <p>3 Q Yes.</p> <p>4 A We've probably had some kind of conversation 5 along those lines, but when you say after I became 6 sheriff, it was not -- it was my intent right after I 7 became sheriff Mr. Haill not to be in the position 8 that he's in. I didn't come in promising him and 9 dictating, telling him he's going to go someplace.</p> <p>10 Q What was your intention for him in terms of 11 a position?</p> <p>12 A I was going to take -- the position he's 13 sitting in now, it was my intent to remove him from 14 that position and put somebody else there.</p> <p>15 Q And who were you going to put in there?</p> <p>16 A Pat Hill.</p> <p>17 Q Is Pat Hill a deputy? Is he employed as a 18 deputy or was he never hired at the sheriff's 19 department?</p> <p>20 A He was never hired. Well, Lynette, Pat Hill 21 was a deputy here and he got fired. He's the deputy 22 that sued for the 1.2 million. He's the person that 23 sued Murphy because they hung a noose up. And so 24 Pat Hill kind of thought -- and I've told you this 25 earlier -- that they even put something in the St.</p>	<p>1 A Well, Tim Haill knows the story behind 2 Pat Hill and me thinking about putting Pat Hill. 3 Tim Haill is in that position. When I got here, he 4 remained in that position because he had an advocate 5 who was a good friend of mine, Wayne Brown, who was a 6 former deputy, who begged me to -- he didn't beg, but 7 he said, hey, you need to leave Tim. Tim's a good 8 guy. So we considered that.</p> <p>9 Q So what did you communicate to Tim, though, 10 Tim Haill? It sounds like you were considering 11 transferring him and you told him you were thinking 12 about that; is that correct?</p> <p>13 A Yes.</p> <p>14 Q Where did you tell him you were thinking of 15 transferring him to?</p> <p>16 A I don't even know. I just know I wasn't 17 going to leave him in HR.</p> <p>18 Q Why didn't you want to leave him in HR?</p> <p>19 A Because I didn't have a relationship with 20 him. I didn't know nothing about Tim Haill. Didn't 21 know -- just like we've said, I didn't go digging in 22 his file to see what kind of background he had. Did 23 he even have credentials to be in HR. So I didn't -- 24 so my initial thoughts was I'm going to move him 25 somewhere else. And I can't remember if I told him</p>

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<p>1 where I was going to move him, I can't remember where, 2 but I can remember having a conversation about him not 3 possibly staying in that position. 4 Q Did you have similar conversations with 5 other deputies like the one you had with Haill? 6 A In regard to like moving people? 7 Q Yes. Now that I'm sheriff, I'm thinking of 8 moving you out of this position, putting you somewhere 9 else. 10 A Nope, nope, nope. I think most of the 11 people that are in positions were there when I got 12 there, and I thought about them before I got there and 13 pretty much let them stay where they are. Tim was one 14 of the rare positions because it was so close to HR 15 and being right in the same room with me, I need 16 somebody that I can trust, and I didn't know all that 17 about Tim Haill at the time. 18 Q I think I asked you before. So people come 19 up to you and talk to you about promotions at various 20 times; is that correct? 21 A Correct. 22 Q And people send you letters telling you 23 they're interested in promotions at various times as 24 well, not only when you say, hey, I've got an opening 25 and I'm thinking about it, if you're interested, let</p>	<p>1 lawsuits? 2 A I know that I had a couple of openings, and 3 he could have possibly been in that bunch, but now 4 we've got all this mess going on, I don't know. 5 Q What do you mean "now that we've got all 6 this mess going on"? 7 A This lawsuit stuff going on. 8 Q So then with the lawsuit stuff going on, he 9 might have been in consideration, but he was out of 10 consideration because of the lawsuit? 11 MS. LEWIS: Objection. Misstates testimony. 12 THE WITNESS: No. 13 BY MS. PETRUSKA: 14 Q So what do you mean by that, that he was in 15 the bunch and then he was out of the bunch? 16 A I think we need to wait and see how this 17 pans out before we move in that direction. 18 Q What do you mean by how it pans out, whether 19 he wins or loses? 20 A I would think so. 21 Q Why would whether he wins or loses his 22 lawsuit influence a promotion decision? 23 A Well, how do you think it would look? How 24 do you think the rest of my employees would feel if he 25 got promoted while all this was going on?</p>
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<p>1 me know. 2 A Correct. 3 Q Have you ever communicated about 4 John Castellano, other than with your attorneys, 5 again, via email? 6 A No. 7 Q Have you ever discussed John's job 8 performance with your supervisory staff? 9 A His job performance? 10 Q Yes. 11 A No. 12 Q Have you ever had any issues, concerns or 13 problems with John's job performance? 14 A With his job performance? 15 Q Yeah. 16 A No. 17 Q Have you ever discussed John being promoted 18 with your supervisory staff? 19 A Before or after the lawsuit? 20 Q Let's start with before the lawsuit. 21 A No. 22 Q How about after? 23 A Yes. 24 Q Okay. What did you discuss with your 25 supervisory staff about promoting John after the</p>	<p>1 Q And that's your concern, how it would look? 2 A I think it would damage morale. I know it 3 would damage morale. 4 Q How would it damage morale? 5 A Well, you've got other people who are 6 qualified, and here you promote somebody that's been 7 giving you all kind of hell. What sense does that 8 make? That's, I guess, would be what they would 9 interpret it. I don't know. 10 Q But his name -- since you've been sheriff, 11 his name has surfaced for promotion, if I'm 12 understanding your testimony, correct? 13 A I gave it, yeah. If I'm going to be honest, 14 yes. 15 Q And he was not selected because of concerns 16 of how it would look because the lawsuit's going on. 17 A Not so much -- not because of that, no. He 18 was not selected because he's not qualified for what I 19 wanted. He's not meeting the qualifications. It's 20 got nothing to do with the lawsuits. I don't even 21 know why we're even talking about that. 22 Q How is he not qualified? 23 A Well, he doesn't have all the attributes and 24 characteristics that I want in a supervisor. 25 Q Again, so how is he not qualified?</p>

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<p>1 A Well, that's what I'm saying. He doesn't</p> <p>2 have all of the attributes that I want in a</p> <p>3 supervisor. So, therefore, it disqualifies him in my</p> <p>4 mind.</p> <p>5 Q So does that mean that while you're sheriff</p> <p>6 that John Castellano will never be promoted to</p> <p>7 sergeant?</p> <p>8 A No, that's not true. You know, he could</p> <p>9 be -- you know, he might go to school, get educated, I</p> <p>10 don't know. Several -- a lot of different things.</p> <p>11 I'm not saying he could never be promoted while I'm</p> <p>12 sheriff, that's not right.</p> <p>13 Q So let me ask it this way: In your mind,</p> <p>14 what would John Castellano need to do to be considered</p> <p>15 for promotion?</p> <p>16 A I'd have to give --</p> <p>17 MS. LEWIS: Sorry, Sheriff. I'm just going</p> <p>18 to object to the form. It's an improper hypothetical.</p> <p>19 Go ahead and answer.</p> <p>20 THE WITNESS: I have to give that some</p> <p>21 thought, some thought about what else John needs to do</p> <p>22 in order to get promoted under Vernon Betts.</p> <p>23 BY MS. PETRUSKA:</p> <p>24 Q Let me know when you've had enough time to</p> <p>25 think about it and then we'll get back to it.</p>	<p>1 promoted, Lynette, something has stood out with them</p> <p>2 that caused me to promote them. I have not seen</p> <p>3 anything with Mr. Castellano that stands out that I</p> <p>4 should put him on my -- top of my list.</p> <p>5 Q Have you ever said anything critical or</p> <p>6 negative about John Castellano to your supervisory</p> <p>7 staff?</p> <p>8 A Well, I don't think I've said anything</p> <p>9 positive about him, I don't know. John Castellano</p> <p>10 doesn't come up in my conversations very often.</p> <p>11 Q And have you ever discussed firing</p> <p>12 Castellano with your supervisory staff?</p> <p>13 A Not yet.</p> <p>14 Q When you say "not yet," it makes it sound</p> <p>15 like it might be on the horizon. Is it on the</p> <p>16 horizon?</p> <p>17 A I don't know.</p> <p>18 MS. LEWIS: Objection. Misstates testimony.</p> <p>19 BY MS. PETRUSKA:</p> <p>20 Q Has John Castellano done anything that would</p> <p>21 make you consider terminating him?</p> <p>22 Did you not hear my question?</p> <p>23 A I heard it.</p> <p>24 Q Okay. I wasn't sure since I wasn't getting</p> <p>25 an answer, and I know we've had connectivity problems</p>
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<p>1 A Do you want me to think about it right now?</p> <p>2 Q I'll give you a few minutes right now. If</p> <p>3 you can't think of anything, we'll move on and I'll</p> <p>4 come back to it.</p> <p>5 A Let's move on. We'll come back to it.</p> <p>6 Q Then let me go back to my previous question.</p> <p>7 Where does he fail in his qualifications in your mind?</p> <p>8 What does he not have that right now he can't be</p> <p>9 promoted?</p> <p>10 A I haven't seen anything out of</p> <p>11 John Castellano that brings him to the forefront of</p> <p>12 being promoted. He's not exceptional in any work. He</p> <p>13 hasn't done anything outstanding since I've been here.</p> <p>14 He definitely doesn't communicate. His communication</p> <p>15 skill is very poor. Extremely poor. I've only spoken</p> <p>16 to the -- the guy has only spoken to me once, I think,</p> <p>17 in the four years that I've been here. And that's a</p> <p>18 major part, communication in being a supervisor in my</p> <p>19 department. You have to be able to relate to the</p> <p>20 employees, communicate. And if you don't even</p> <p>21 communicate with the sheriff, how in the heck are you</p> <p>22 going to communicate with the employees?</p> <p>23 And so, like I said, I've not seen anything</p> <p>24 above and beyond. His work ethic has not stood out in</p> <p>25 any kind of way. And all of those people that I've</p>	<p>1 during the day.</p> <p>2 A I don't even think about Mr. Castellano.</p> <p>3 Q Well, don't you think about the performances</p> <p>4 of all your deputies?</p> <p>5 A Yeah, when it's performance -- when I'm</p> <p>6 evaluating them. From day to day, I don't have a</p> <p>7 specific deputy I come in and I zero in, let me think</p> <p>8 about this particular guy. Too much going on for</p> <p>9 that.</p> <p>10 Q Okay. But per your previous testimony, you</p> <p>11 review all performance appraisals, so you know how</p> <p>12 supervisors are rating their employees, correct?</p> <p>13 A Correct.</p> <p>14 Q And if I'm understanding your testimony,</p> <p>15 and, obviously, I'm not speaking about the future, but</p> <p>16 as we sit here right now, John Castellano hasn't done</p> <p>17 anything related to his job that you're currently</p> <p>18 considering firing him.</p> <p>19 A As it relates to his job? No.</p> <p>20 Q Yes.</p> <p>21 A No.</p> <p>22 Q I want to ask those same questions --</p> <p>23 MS. PETRUSKA: If you don't object, Corey,</p> <p>24 I'm just going to lump them together for speed.</p> <p>25</p>

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<p>1 BY MS. PETRUSKA:</p> <p>2 Q Have you talked to -- we've already asked</p> <p>3 about your supervisory staff. Have you talked to</p> <p>4 anybody in the sheriff's department, so any employee,</p> <p>5 about John's job performance, said anything negative</p> <p>6 about him or critical of him or his performance or</p> <p>7 talked to them about terminating his performance?</p> <p>8 A No.</p> <p>9 Q Why did you transfer John to the hospital</p> <p>10 unit on January 12th of 2017?</p> <p>11 A Was it to the hospital unit or was it to,</p> <p>12 like, the transportation unit? So I think, and I'm</p> <p>13 not sure, I may have this all mixed up, but we had --</p> <p>14 are you there?</p> <p>15 Q Yeah. I think I was trying to get -- let me</p> <p>16 take this off. I think I was trying to get an exhibit</p> <p>17 ready to refresh your recollection, but go ahead.</p> <p>18 A We had made a personnel move where we -- I</p> <p>19 think that's where we promoted Mr. Cannon, because we</p> <p>20 had demoted Mr. Norise, so we had that open spot that</p> <p>21 we needed to fill. So I think that's why we moved</p> <p>22 Mr. Castellano to that spot, which I think was an</p> <p>23 increase in pay.</p> <p>24 Q Let me do this. I'm going to see if this</p> <p>25 refreshes your recollection. I'm going to show you --</p>	<p>1 nights to retaliate against him?</p> <p>2 A He hadn't done anything for me to have to</p> <p>3 retaliate against.</p> <p>4 Q So the answer would be no, you didn't do it</p> <p>5 to retaliate against him.</p> <p>6 A Right. No.</p> <p>7 Q You testified a moment ago that -- let me</p> <p>8 get this off.</p> <p>9 (Discussion off the record.)</p> <p>10 BY MS. PETRUSKA:</p> <p>11 Q Sheriff, I'm showing you what's been marked</p> <p>12 as Plaintiff's Exhibit 13. It's an email -- or a</p> <p>13 promotion/demotion list dated April 19, 2017, which is</p> <p>14 what you talked about before. Castellano is</p> <p>15 transferred to the jail crew and Cannon is promoted to</p> <p>16 sergeant, correct?</p> <p>17 A Correct.</p> <p>18 Q Let me ask you first, why did Norise get</p> <p>19 demoted?</p> <p>20 A Because he had been written up twice by his</p> <p>21 supervisor and continued to just violate rules and do</p> <p>22 stuff that he didn't have no business doing. I would</p> <p>23 have to go back and look up the specific write-ups,</p> <p>24 but I can remember that he was written up twice by his</p> <p>25 supervisor. And the first time he was written up I</p>
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<p>1 is it up there?</p> <p>2 A Yeah, something's there.</p> <p>3 Q Are you seeing a document, and if I scroll</p> <p>4 down, it says Depo 12?</p> <p>5 A Yes.</p> <p>6 Q This is a memo dated January 12th of 2017</p> <p>7 that says effective Wednesday, January 18, Castellano</p> <p>8 is going from the courts to the hospital unit and</p> <p>9 Burklow is going from the hospital unit to the courts.</p> <p>10 A Yeah, I see that.</p> <p>11 Q And that would be your signature at the</p> <p>12 bottom, correct?</p> <p>13 A That's correct.</p> <p>14 Q And so why did you make that transfer?</p> <p>15 A Burklow is going from the hospital unit to</p> <p>16 Carnahan extra board -- I can't remember exactly what</p> <p>17 was going on, but I know Burklow didn't end up moving,</p> <p>18 but we needed somebody in that -- and that wasn't -- I</p> <p>19 don't know if he actually went to the hospital unit.</p> <p>20 But I do remember this. I do remember him being</p> <p>21 transferred.</p> <p>22 Q Did you transfer him to nights to retaliate</p> <p>23 against him?</p> <p>24 A For what?</p> <p>25 Q I'm just asking. Did you transfer him to</p>	<p>1 had given him a warning that if he continued, that he</p> <p>2 would lose his rank.</p> <p>3 Q But you don't remember why he was written</p> <p>4 up?</p> <p>5 A No, I don't remember specifically why the</p> <p>6 lieutenant steward wrote him up, but I know he was</p> <p>7 wrote up twice before he lost his rank.</p> <p>8 Q Bottom line, though, it's a disciplinary</p> <p>9 demotion, involuntary, he doesn't request it.</p> <p>10 A Right.</p> <p>11 Q And is April of 2017, then, with this</p> <p>12 demotion, it sounds like that's the first time you</p> <p>13 have a sergeant's opening, correct?</p> <p>14 A Correct.</p> <p>15 Q Why do you transfer Castellano to the jail</p> <p>16 crew on April 19th?</p> <p>17 A Because promoting Antoine Cannon now to</p> <p>18 sergeant gives me a vacancy, and I needed somebody to</p> <p>19 help Antoine Cannon on that crew.</p> <p>20 Q So his moving up the rank creates an opening</p> <p>21 below him. I've got you now.</p> <p>22 A Right.</p> <p>23 Q Again, I'm going to try to do this in a</p> <p>24 broad stroke. It's my understanding that with the</p> <p>25 exception of maybe some roll calls that you don't</p>

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<p>1 remember the specific dates, it was not your policy or 2 practice to say I've got this opening right now, 3 please apply by this date if you're interested. 4 A Right. 5 Q So there's no announcement related to what 6 I'm going to call the April sergeant's opening. No 7 specific announcement, there might have been a verbal 8 announcement. 9 A And you're correct. 10 Q Do you know, according to my documentation, 11 it looks like you do eight or nine promotions to 12 sergeant, which results in the promotion of the 12 13 people. So there's a couple of times that you're 14 promoting two people on the same day, okay? So in 15 terms of those eight or nine promotions, do you know 16 how many times you announced openings at the roll call 17 meetings? 18 A I do not. 19 Q So if I'm understanding your testimony, you 20 had a sergeant's opening in the transportation unit -- 21 A Yes. 22 Q -- because of Norise's demotion. 23 A Yes. 24 Q Did anybody apply for this particular 25 position?</p>	<p>1 A Only after this all of this stuff kicked 2 off. 3 Q You learned about that related to the 4 lawsuits is what I'm understanding, correct? 5 A Yes. 6 Q Told you I wouldn't ask you that whole set 7 of questions about review because we covered it all, 8 so I'm not going to do it. 9 So why did you promote Cannon to this 10 particular sergeant's promotion? 11 A Because he was working hand and hand with 12 Norise Chapelle, the two of them had been working 13 together. He knew the job, knew the responsibility. 14 He was carrying out the responsibility, from what I 15 could see and understand, in a very excellent fashion. 16 So all I simply considered myself doing was removing 17 Chapelle from that position and moving Antoine Cannon 18 up. That's all I really considered myself doing, is 19 moving him up. 20 He was already doing what they did at night. 21 The two of them worked together, and so there was no 22 reason to go do a search for somebody to put in that 23 spot when you've already got somebody working right 24 there in that spot. Know the job, got the education, 25 and had been there, promote him. So that's what I</p>
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<p>1 A No. 2 Q Who did you consider for this particular 3 promotion? 4 A Mr. Cannon. 5 Q Is he the only one you considered? 6 A Yes. There's a reason for that. 7 Q We're going to get to that. Did any 8 supervisors recommend Cannon or anybody else for this 9 particular promotion? 10 A No. 11 Q You said you considered Castellano for 12 certain promotions, so did you consider Castellano for 13 this particular promotion? 14 A No. And when I say I considered, that's 15 been after the fact, after all of this here. Things 16 that have gone on the last several months, 17 Mr. Castellano popped in my head. But, no, at the 18 time that all this is going on, no, Mr. Castellano was 19 not considered at this time. 20 Q Were you aware that Castellano had expressed 21 interest in open sergeant positions before Murphy 22 retired? 23 A No. 24 Q Did somebody forward any kind of 25 communication along that line to you?</p>	<p>1 did. 2 Q So it was your understanding that he was 3 doing a good job in the position? 4 A He was doing a good job. I'm observing all 5 of that. 6 Q If he was evaluated after you took office 7 and before he was promoted, you would have seen and 8 reviewed his evaluation, correct? 9 A Correct. 10 Q Can you see what's been marked as Depo 11 Exhibit 16 at this point? 12 A Yes, ma'am. 13 Q And that is Cannon's performance evaluation 14 at the jail crew by Sergeant Norise, correct? 15 A Yes. 16 Q And it's dated January 24th of 2017, 17 correct? 18 A Yes, ma'am. 19 Q And you would have seen that then because 20 it's in his personnel file, correct? 21 A I don't know if I have that in my file, and 22 I said a few minutes ago that I would have seen it. I 23 would have seen it if it was given to me, and I don't 24 believe this was ever given to me. 25 Q Let me ask you first. It says: Rating</p>

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<p>1 commander should consult Procedural Order 99-001 and</p> <p>2 99-002 regarding the preparation of the performance</p> <p>3 appraisal.</p> <p>4 What are those?</p> <p>5 A I don't have a clue.</p> <p>6 Q You said before that one of the things that</p> <p>7 was important to you in terms of promoting somebody is</p> <p>8 that they're there and do the job, correct?</p> <p>9 A Correct.</p> <p>10 Q Do you see here that Cannon needed</p> <p>11 improvement in terms of attendance in January of 2017?</p> <p>12 A I see that.</p> <p>13 Q And Norise rated him as needing improvement</p> <p>14 in his knowledge of the position in January of 2017?</p> <p>15 A I see that.</p> <p>16 Q And that he needed improvement in complying</p> <p>17 with the rules, regulations and authority in</p> <p>18 January 2017, correct?</p> <p>19 A Correct. I see all of that.</p> <p>20 Q As well as supervisory performance.</p> <p>21 A Right.</p> <p>22 Q So you said that your practice is to talk to</p> <p>23 the supervisor about -- the immediate supervisor about</p> <p>24 somebody you're thinking about promoting. Did you</p> <p>25 talk to Norise about Cannon?</p>	<p>1 A Correct.</p> <p>2 Q So I'm not going to ask you how you compared</p> <p>3 them to other candidates, okay?</p> <p>4 I know I asked you to describe your process</p> <p>5 for promotions earlier and you outlined that</p> <p>6 generally. But in your answer to interrogatory 15 in</p> <p>7 the state lawsuit, you said that you promote someone</p> <p>8 on merit based on your personal knowledge, okay?</p> <p>9 A Okay.</p> <p>10 Q I can show you that interrogatory answer if</p> <p>11 you want, but to save time, you can accept my</p> <p>12 representation.</p> <p>13 A I go along with what you're saying.</p> <p>14 Q What I want to understand is when you say</p> <p>15 you promote somebody based on merit, what does merit</p> <p>16 mean to you?</p> <p>17 A Merit means to me, and we have said this</p> <p>18 earlier in our conversation, merit means to me that</p> <p>19 that person has conducted himself in a professional</p> <p>20 way on the job, carried out the responsibilities of</p> <p>21 the job, and conducts himself off the job, but</p> <p>22 basically on the job conducts himself, carries out the</p> <p>23 responsibility, communicates with his supervisor and</p> <p>24 his employer, has done those things that we asked him</p> <p>25 to do. And when I say "those things," the</p>
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<p>1 A I did not.</p> <p>2 Q Why not?</p> <p>3 A Probably because Norise is Norise, and just</p> <p>4 like I'm looking at this evaluation and I bet this</p> <p>5 evaluation is probably -- I bet Cannon would have</p> <p>6 total objection. This is the first time I've seen</p> <p>7 this, and I'm sure Cannon would object to this</p> <p>8 evaluation. And I'm saying that this evaluation is</p> <p>9 probably the way that it is not so much because of the</p> <p>10 employee merits this, but because of the supervisor</p> <p>11 grading him, and that's one reason why that supervisor</p> <p>12 is no longer the supervisor.</p> <p>13 Q But, I mean, again, you're the sheriff, so</p> <p>14 if you disagreed with this evaluation, you could have</p> <p>15 overwritten it in January of 2017, correct?</p> <p>16 A What I'm saying to you, Lynette, is I never</p> <p>17 got this evaluation.</p> <p>18 Q Anything else that factored into your</p> <p>19 decision to promote Cannon to the sergeant's position</p> <p>20 in transportation?</p> <p>21 A No.</p> <p>22 Q And again, if I'm understanding your</p> <p>23 previous testimony, you never considered anybody else</p> <p>24 for the first promotion other than Cannon, so you</p> <p>25 didn't compare him to other candidates, correct?</p>	<p>1 responsibilities of his job based on as I communicate</p> <p>2 with his supervisors. Do I get any reflection on this</p> <p>3 guy not doing what he's supposed to do? And so the</p> <p>4 reports that I get from supervision.</p> <p>5 So when I say merit, this person has done</p> <p>6 basically those things that I think are things that</p> <p>7 would qualify him for being promoted or whatever.</p> <p>8 Q And if I'm understanding your testimony,</p> <p>9 then, so merit is basically what -- when we were</p> <p>10 talking about qualities before, merit is the quality</p> <p>11 you identified before.</p> <p>12 A Sure.</p> <p>13 Q I've got you now. When you say based on</p> <p>14 your personal knowledge, how do you obtain personal</p> <p>15 knowledge of these folks that you're considering for</p> <p>16 promotion?</p> <p>17 A How do I obtain personal -- when I say I'm</p> <p>18 promoting these people based on personal knowledge, my</p> <p>19 knowledge of the skills that it takes to carry</p> <p>20 yourself on a job. And so I obtain that knowledge by</p> <p>21 interviewing, talking to -- as we said, talking to</p> <p>22 their supervisor, seeing what the person had done. A</p> <p>23 lot of these jobs, I've actually gone with the</p> <p>24 employees to actually see what's done, know what's</p> <p>25 going on. I'm out on the floor, I'm not in the office</p>

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<p>1 24/7 and all that kind of stuff, but I'm out on the 2 floor, watching and seeing. And so from my 3 observation, and then, like I said, from communicating 4 with the other supervisors, maybe not even his own 5 immediate supervisor.</p> <p>6 Because people are going to make reports. 7 Maybe not technical or direct reports, but just by 8 verbally saying, hey, you know so on, you know that 9 Cannon did this, Cannon did that. So you take all of 10 that kind of information. To me, that's what I do, 11 and then I make my determinations as to whether or not 12 I want to promote a person or not.</p> <p>13 Q Now, you talked about doing interviewing. 14 What kind of interviewing do you do?</p> <p>15 A When we talk about interviewing, are we 16 talking about new employees or --</p> <p>17 Q You said that you interview the employee and 18 you talk to the supervisor.</p> <p>19 A Okay.</p> <p>20 Q You've already explained what you do in 21 terms of talking to the supervisor, so what do you do 22 in terms of interviewing when you're considering a 23 promotion?</p> <p>24 A I'll call that person into my office, or 25 maybe not. Maybe I'll just see him in the hallway and</p>	<p>1 downtown, and we have to -- we do the staging for the 2 police. What I mean by that, we provide the vans and 3 the vehicles for moving. If I call you today, I need 4 you to be on that crew. I need you to come to work. 5 I don't need you to tell me you're getting ready to 6 take the kids to the park to play ball.</p> <p>7 So, Lynette, in my interview, we talk about 8 just in general a gamut of different things. And 9 that's how I kind of get an idea as to whether or not 10 I want that person to work for me as a supervisor, if 11 I'm going to promote that person.</p> <p>12 Q Let me ask you this: I know in the Cannon 13 promotion you only considered him, so that's how you 14 talked to him. Some of these other promotions when 15 you were considering several people as opposed to a 16 specific individual, do you talk to several people 17 about those things?</p> <p>18 A I'll talk to each person about those same 19 things.</p> <p>20 Q So, right. I don't know -- you know, let me 21 just randomly pick a promotion, and I'm not saying it 22 happened this time, but there's another promotion in 23 May of '17. So if you're considering three people for 24 that slot, you would bring each of those three people 25 in and have that kind of a conversation with them?</p>
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<p>1 ask him, you know, what do you think you're going to 2 be doing as a supervisor. And I may -- and that's 3 kind of a rhetorical question, but let me tell you 4 what you're going to be doing. You're going to be 5 doing this, this and this. Can you adhere to that 6 responsibility?</p> <p>7 Usually when I say I'm interviewing a 8 candidate, I'll talk to that person and kind of let 9 him know this ain't -- when I promote you, if you get 10 promoted, it ain't going to be no walk in the park. 11 We're talking about some responsibilities here.</p> <p>12 And that's why I've had a few people say, 13 hey, no, I don't want to be a supervisor because I'm 14 going to have to come to work at times where I don't 15 want -- I don't want my family to be interrupted, my 16 family time to be interrupted, and that's the kind of 17 stuff when I say interview, I'll ask people about 18 those kinds of things.</p> <p>19 We talk about pay. I've had one person to 20 turn down becoming a supervisor because the pay wasn't 21 what he thought it was going to be. But you talk 22 about pay, you talk about responsibility, you talk 23 about them having to work times. Right now with all 24 the stuff that's going on, I may get a call in the 25 next five minutes, we're going to have a protest</p>	<p>1 A Yes.</p> <p>2 Q It's not just who you're considering to be 3 your top candidate.</p> <p>4 A Yes. And like I said, when you say bring 5 them in, that may not have necessarily been a formal 6 process where I say, hey, I want you to come, I also 7 want to talk to you. I might have met that person in 8 the hallway somewhere and we just stop, standing off 9 to the side, talk about, you know.</p> <p>10 Q I understand. So it might not be a formal 11 interview. If they work in a certain area, you might 12 just pull them aside and talk to them in their area.</p> <p>13 A Right.</p> <p>14 Q My understanding is Cannon had been working 15 with the sheriff's department about three years when 16 you promoted him; is that correct?</p> <p>17 A I think so.</p> <p>18 Q Do you know what units he had worked in in 19 the sheriff's department when he was promoted to 20 sergeant?</p> <p>21 A I'm not sure. I kind of think he'd been in 22 transportation all the time.</p> <p>23 Q Maybe I didn't look at them closely enough. 24 Is there a documentation on the forms that say what 25 unit they're assigned to?</p>

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<p>1 A Yes.</p> <p>2 Q I see those employee forms.</p> <p>3 A Yes.</p> <p>4 Q On the form it actually says what unit</p> <p>5 you're assigned to?</p> <p>6 A Yes.</p> <p>7 Q But you don't know if he had worked in</p> <p>8 transportation the whole three years because you</p> <p>9 weren't there for a good chunk of that.</p> <p>10 A Right. I don't know exactly where he</p> <p>11 worked.</p> <p>12 Q So with respect to Cannon, if I'm</p> <p>13 understanding your testimony, you don't have a -- you</p> <p>14 don't have a supervising sergeant you can talk to</p> <p>15 because it's Norise, correct?</p> <p>16 A Correct.</p> <p>17 Q So do you talk to anybody else about Cannon</p> <p>18 to get a sense of him other than your own perspective?</p> <p>19 A I'm sure that I probably talked to</p> <p>20 Lester Stewart, who both Norise and Cannon reported</p> <p>21 to. He was the lieutenant. I'm sure that in passing</p> <p>22 the other supervisors in the office may have given me</p> <p>23 their take. If Cannon had been a terrible employee,</p> <p>24 I'm sure Tim or Tammy or the major would have said,</p> <p>25 no, wait a minute, that's who you're promoting? It's</p>	<p>1 the other people that he had to interact with.</p> <p>2 Q When you promoted Cannon, did you know he</p> <p>3 had received a written reprimand for professionalism</p> <p>4 and a lack of common courtesy in his daily</p> <p>5 performance?</p> <p>6 A I did not know that.</p> <p>7 MS. LEWIS: You did or did not? I'm sorry.</p> <p>8 THE WITNESS: I did not know that.</p> <p>9 BY MS. PETRUSKA:</p> <p>10 Q Would that have had any impact on your</p> <p>11 decision?</p> <p>12 A Yes, it would have.</p> <p>13 Q If it was in his personnel file, why didn't</p> <p>14 you know that?</p> <p>15 A Because it wasn't in my personnel file of</p> <p>16 him.</p> <p>17 Q Did you ask anybody if he had any kind of</p> <p>18 disciplinary history?</p> <p>19 A I don't think I did.</p> <p>20 Q I just want to be clear. I want to see if</p> <p>21 this refreshes your recollection in any way. I'm</p> <p>22 showing you now what's previously been marked as</p> <p>23 Deposition Exhibit 17. It's a memo dated December 11,</p> <p>24 2014 produced to us by the City. And I do understand</p> <p>25 you are not on the sheriff's department at this point.</p>
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<p>1 terrible. So we didn't get that reflection from</p> <p>2 anybody.</p> <p>3 Q When you say "the major," which major would</p> <p>4 it be if it's in transportation?</p> <p>5 A It would have been Major Lammert.</p> <p>6 Q So you talked to some individuals and it was</p> <p>7 your personal observations, correct?</p> <p>8 A Correct.</p> <p>9 Q Anything else that factored in to the</p> <p>10 decision to promote Cannon?</p> <p>11 A Well, his educational background really</p> <p>12 impressed me.</p> <p>13 Q Anything else?</p> <p>14 A His character and demeanor. Whenever I</p> <p>15 would see him, it always seemed to be about the</p> <p>16 business. Pleasant. Pleasant attitude.</p> <p>17 Q You stressed a couple of times communication</p> <p>18 skills. What did you know about his communication</p> <p>19 skills, him being Cannon?</p> <p>20 A Well, I know he communicates. He</p> <p>21 communicated with me on a regular basis whenever I</p> <p>22 would see him. I'm a former schoolteacher, so I know</p> <p>23 when you can put together a sentence. His</p> <p>24 communication skills were decent. And always cordial.</p> <p>25 And seemed to, from my observation, get along with all</p>	<p>1 Are you telling me that this is the first time you're</p> <p>2 seeing this particular memo?</p> <p>3 A I am.</p> <p>4 Q And as we sit here today, you don't know the</p> <p>5 specific facts set around that particular write-up; is</p> <p>6 that correct?</p> <p>7 A That's correct.</p> <p>8 Q What conduct he engaged in that was found to</p> <p>9 be uncourteous or lacked professionalism?</p> <p>10 A I have no idea.</p> <p>11 Q And my understanding is Cannon is no longer</p> <p>12 with the sheriff's department; is that correct?</p> <p>13 A That's correct.</p> <p>14 Q Did he resign or was he fired?</p> <p>15 A He was fired.</p> <p>16 Q Why was he fired?</p> <p>17 A Because he went through a legal situation</p> <p>18 that ended up causing him to have a felony, and you</p> <p>19 can't work for the sheriff's department if you have a</p> <p>20 felony on your record.</p> <p>21 Q He was actually charged with domestic</p> <p>22 assault, correct?</p> <p>23 A Correct.</p> <p>24 Q Between the time he was charged and</p> <p>25 convicted, what was his status with the sheriff's</p>

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<p>1 department?</p> <p>2 A I believe he was suspended.</p> <p>3 Q With or without pay?</p> <p>4 A I think without pay.</p> <p>5 Q So when he was charged with a crime, he was</p> <p>6 suspended without pay, and then when he was convicted,</p> <p>7 he was fired; is that how it works?</p> <p>8 A That's how it works, yes.</p> <p>9 Q Did you give him the opportunity to resign</p> <p>10 in lieu of termination?</p> <p>11 A No, I didn't. That's the process. When</p> <p>12 you're found guilty, then you're automatically</p> <p>13 terminated.</p> <p>14 Q It's just an automatic, right?</p> <p>15 A Yes, yes.</p> <p>16 Q And you would agree, my understanding is the</p> <p>17 specifics of that particular domestic assault was that</p> <p>18 he handcuffed his mother-in-law and then forced her to</p> <p>19 the ground and on a couch to prevent her from leaving</p> <p>20 his apartment, correct?</p> <p>21 MS. LEWIS: Objection. Relevance.</p> <p>22 THE WITNESS: I understand that.</p> <p>23 BY MS. PETRUSKA:</p> <p>24 Q That's your understanding as well?</p> <p>25 A Yes.</p>	<p>1 a position that I -- like I said earlier, I don't care</p> <p>2 nothing about what is an acting sergeant. Either</p> <p>3 you're doing it or you're not. And so she was given</p> <p>4 that position as sergeant, not acting sergeant.</p> <p>5 Q She did mention -- Felicia Davis had been</p> <p>6 acting sergeant. Did you increase your sergeant</p> <p>7 number at that time to make her a sergeant?</p> <p>8 A No, I didn't increase the numbers to make</p> <p>9 her a sergeant because there was a sergeant spot</p> <p>10 already open and she was the acting sergeant.</p> <p>11 But that's the way the old regime used to</p> <p>12 work. They would have an opening, but then wouldn't</p> <p>13 give you the position because they would make you</p> <p>14 acting and you would work in the position and not get</p> <p>15 the pay and all that stuff. So she was -- there</p> <p>16 wasn't an extra position made for her to become</p> <p>17 sergeant.</p> <p>18 Q So are you saying that that sergeant spot</p> <p>19 had been open since you became sheriff?</p> <p>20 A I believe so, yes. I believe so.</p> <p>21 Q Why did you wait until May of 2017 to fill</p> <p>22 it?</p> <p>23 A May of 2017?</p> <p>24 Q Yes.</p> <p>25 A I took office in January, February, March,</p>
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<p>1 Q And you would agree that such conduct</p> <p>2 doesn't reflect professionalism on or off duty,</p> <p>3 correct?</p> <p>4 A I agree.</p> <p>5 Q And it doesn't reflect well on your</p> <p>6 department; is that true?</p> <p>7 A I agree.</p> <p>8 Q So I know that you have the automatic</p> <p>9 termination with a felony conviction, but if he hadn't</p> <p>10 been convicted, would you have been looking at this as</p> <p>11 conduct unbecoming and warranting its own disciplinary</p> <p>12 action?</p> <p>13 A Without a doubt. Yes.</p> <p>14 Q I'm going to move to the next promotion. So</p> <p>15 my understanding is the next promotions happen in May</p> <p>16 of 2017, and they involve Timothy Haill and</p> <p>17 Felicia Davis.</p> <p>18 A I guess, yes.</p> <p>19 Q Tell me first how did two sergeants'</p> <p>20 positions open in May of 2017?</p> <p>21 A I think we said earlier the -- John Tower</p> <p>22 was the name of the person I couldn't think of</p> <p>23 earlier. John Tower -- well, that was the lieutenant</p> <p>24 spot. Felicia was promoted to sergeant because she</p> <p>25 had been the acting sergeant all the time, and that's</p>	<p>1 April, May. Five months later?</p> <p>2 Q Yes.</p> <p>3 A I had so much going on, I guess that's when</p> <p>4 I got around to it.</p> <p>5 Q And I'm assuming with that position as well,</p> <p>6 you didn't consider anybody other than Felicia Davis;</p> <p>7 is that correct?</p> <p>8 A That's correct.</p> <p>9 Q So Sergeant Haill gets promoted in the same</p> <p>10 time frame, May of 2017, I think actually on the exact</p> <p>11 same date. What sergeant position was open for him to</p> <p>12 be promoted into?</p> <p>13 A I don't know if I had a sergeant position</p> <p>14 open. I would have to ask Tammy Hogan did I have a</p> <p>15 position. But all I know is that I promoted Tim Haill</p> <p>16 at that -- I may have had -- must have had a position</p> <p>17 open. And even if I didn't, I promoted Tim Haill</p> <p>18 because of his work ethic and all that he had been</p> <p>19 doing.</p> <p>20 Q Let me make sure I'm understanding again.</p> <p>21 Felicia Davis gets promoted because there's an open</p> <p>22 slot that had never been filled. She's acting and you</p> <p>23 make her permanent as opposed to acting, so there's an</p> <p>24 open position there that keeps your sergeants</p> <p>25 complement the same, correct?</p>

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<p>1 A Correct.</p> <p>2 Q With respect to Haill, you don't know if you</p> <p>3 had an open position. If you don't have an open</p> <p>4 position, you have to create a new one, correct?</p> <p>5 A Correct.</p> <p>6 Q Do you know if you created a new position</p> <p>7 for Haill?</p> <p>8 A I don't remember whether I created a new</p> <p>9 position for him or not.</p> <p>10 Q A sergeant typically supervises other</p> <p>11 people, correct?</p> <p>12 A Correct.</p> <p>13 Q Who does Haill supervise?</p> <p>14 A He doesn't supervise anybody directly, but</p> <p>15 he's over HR in that position, and because he's over</p> <p>16 HR, I guess indirectly, everybody that works for the</p> <p>17 sheriff's department would -- I'll tell you how we</p> <p>18 work it. Everybody that works for the sheriff's</p> <p>19 department will take some kind of instruction from the</p> <p>20 HR guy.</p> <p>21 Q Did you consider anybody but Haill for that</p> <p>22 particular promotion?</p> <p>23 A No, I did not.</p> <p>24 Q So you decide he's doing a good job and he</p> <p>25 should be promoted; is that correct?</p>	<p>1 I'm almost sure I talked to Steve Roberts about</p> <p>2 promoting Tim Haill.</p> <p>3 Q Do you remember what anybody told you about</p> <p>4 Haill in terms of promoting him?</p> <p>5 A No, nobody needed to tell me anything. I'm</p> <p>6 working side by side with the guy every day. I know</p> <p>7 exactly what I see, and he's doing exactly what I</p> <p>8 want.</p> <p>9 Q Let me ask you this. And, again, I can pull</p> <p>10 it up if you want. But in your second answers to</p> <p>11 interrogatories in the State case, interrogatory</p> <p>12 number four, you said that Haill was specifically</p> <p>13 recommended by a colleague. What I'm trying to</p> <p>14 understand is who is that colleague?</p> <p>15 A So I think we've got to make sure we get</p> <p>16 this straight. The colleague I mentioned earlier was</p> <p>17 Wayne Brown.</p> <p>18 Q So that's Brown.</p> <p>19 A Wayne Brown is a retired sheriff deputy.</p> <p>20 And he wanted to make sure that I kept him in that</p> <p>21 spot. So he didn't even work for the sheriff's</p> <p>22 department, but he was going to bat for Tim. So Tim</p> <p>23 stayed in that spot. When I got there to be sheriff,</p> <p>24 he stayed in that spot as the HR guy, but -- not with</p> <p>25 my total support, but as we went through those first</p>
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<p>1 A That's correct.</p> <p>2 Q And he is promoted at that point and Felicia</p> <p>3 is promoted.</p> <p>4 Anything else that we haven't covered that</p> <p>5 factors into the decision to promote? Let's go first</p> <p>6 with Davis.</p> <p>7 A Anything else factor?</p> <p>8 Q Yes.</p> <p>9 A Other than the young lady has years and</p> <p>10 years of experience and, like I said, I know she'd</p> <p>11 been acting sergeant for a long time, I believe, so</p> <p>12 nothing other than what we've already said.</p> <p>13 Q And then Haill was because he was doing a</p> <p>14 good job, if I'm understanding correctly.</p> <p>15 A That's primarily -- yes, that's primarily,</p> <p>16 yes.</p> <p>17 Q Did anybody recommend Haill for promotion to</p> <p>18 you?</p> <p>19 A Did anybody recommend Tim Haill?</p> <p>20 Q Did anybody suggest that he should be</p> <p>21 promoted?</p> <p>22 A No, but when I talked to my chief of</p> <p>23 staff -- I may have talked to my chief of staff about</p> <p>24 it and I may have even talked to Tammy Hogan about it,</p> <p>25 and I can believe that there was a definitely yes.</p>	<p>1 several months and, I mean, the stuff that's hitting</p> <p>2 me left and right, and Tim is doing everything I asked</p> <p>3 him to do, he's doing it the correct way. I mean,</p> <p>4 everything I wanted in an HR person. So boom, here we</p> <p>5 are.</p> <p>6 Q And I do understand that you said Brown</p> <p>7 previously recommended that you let him stay, but did</p> <p>8 he also recommend that you promote him?</p> <p>9 A No, I don't think Wayne -- he might have.</p> <p>10 But I don't recall him specifically saying, Vernon,</p> <p>11 you ought to promote Tim Haill. I don't recall that.</p> <p>12 Q How is Wayne Brown a colleague?</p> <p>13 A Wayne Brown is a former St. Louis sheriff</p> <p>14 deputy, and when I got hired as a sheriff deputy,</p> <p>15 Wayne Brown was one of the deputies that trained me,</p> <p>16 and then he later retired.</p> <p>17 Q So the next promotion happens on August 7 of</p> <p>18 2017. Does that sound right?</p> <p>19 A I guess, yes, ma'am.</p> <p>20 Q And that's Mr. McGinnist?</p> <p>21 A Yes, ma'am.</p> <p>22 Q Let me ask you this. I pulled up before</p> <p>23 Exhibit 13 that showed that Cannon had been promoted</p> <p>24 and Sergeant, was it Norise had been demoted?</p> <p>25 A Yes.</p>

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<p>1 Q Are those the kinds of announcements that go</p> <p>2 into everybody's mailbox?</p> <p>3 A No.</p> <p>4 Q When you make a promotion or demotion</p> <p>5 decision, who gets that particular document?</p> <p>6 A HR would get that and then probably --</p> <p>7 definitely the majors would get that information and</p> <p>8 whoever that person would be reporting to.</p> <p>9 Q So it goes to HR, the majors and whoever the</p> <p>10 new supervisor is?</p> <p>11 A Yes, probably.</p> <p>12 Q So how is it that a sergeant's position was</p> <p>13 open in August of '17?</p> <p>14 A I do not recall. And I would have to talk</p> <p>15 to Tammy Hogan to see what happened to cause us to</p> <p>16 have a sergeant's position open.</p> <p>17 Q Do you know in what unit the sergeant's</p> <p>18 division was open?</p> <p>19 A Courts.</p> <p>20 Q Did anybody in particular apply for that</p> <p>21 particular promotion?</p> <p>22 A I am not sure about that. But by that time,</p> <p>23 I'm sure that words have circulated around that we</p> <p>24 might have had -- and it all depends how that came</p> <p>25 about. If Tammy Hogan can tell us that we had a</p>	<p>1 A You know, I would have to go through my</p> <p>2 drawer. I think I had several letters by then, and my</p> <p>3 mind is kind of -- I know I had some other people</p> <p>4 because I know I had people who had been there for a</p> <p>5 while.</p> <p>6 Q Actually, let's do this, then, Sheriff,</p> <p>7 because it should be something you already have in</p> <p>8 front of you because it was longer and I sent it to</p> <p>9 Korey. If you could find Exhibit 26.</p> <p>10 A I've got it.</p> <p>11 Q That would be what was produced to us as the</p> <p>12 letters of people expressing interest in a promotion.</p> <p>13 A Right. Okay. All of these are letters?</p> <p>14 Q Yes. My understanding is those are all of</p> <p>15 the letters you received about people that were</p> <p>16 interested in promotions.</p> <p>17 MS. PETRUSKA: Korey, I'm going to defer to</p> <p>18 you. From the time he became sheriff to at least to</p> <p>19 the time of whenever they were produced, right?</p> <p>20 MS. LEWIS: I believe so.</p> <p>21 BY MS. PETRUSKA:</p> <p>22 Q I know you're not necessarily accounting for</p> <p>23 the fact that it's a full and complete list, but</p> <p>24 that's what it is, it's every letter from January of</p> <p>25 '17 to whatever the production date was, correct?</p>
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<p>1 vacant position, then everybody would know that, and</p> <p>2 so that's probably how that transpired.</p> <p>3 Q Let me make sure. So in terms of the first</p> <p>4 three promotions, which would have been Cannon, Davis</p> <p>5 and Haill, you've got very specific people in mind</p> <p>6 when you're doing all of that, and so you don't really</p> <p>7 need to consider a broader pool, if I'm understanding</p> <p>8 your previous testimony, correct?</p> <p>9 A You are right.</p> <p>10 Q By the time we get to August, are you</p> <p>11 considering a broader pool, or do you already have</p> <p>12 McGinnist in mind?</p> <p>13 A No. Probably the time we got to August, I'm</p> <p>14 considering a broader pool. We probably had enough --</p> <p>15 with the promotions of Cannon, with the promotions of</p> <p>16 Felicia and -- who's the other person -- Tim Haill,</p> <p>17 Tim Haill, I am sure that those promotions created</p> <p>18 some kind of hubbub, some kind of conversation</p> <p>19 throughout the shop. Now other people want</p> <p>20 promotions. I'm pretty sure of that.</p> <p>21 Q So by August you were casting a wider net in</p> <p>22 terms of who you were considering for promotions.</p> <p>23 A Yes.</p> <p>24 Q Who did you consider for the court sergeant</p> <p>25 promotion that occurred in August of 2017?</p>	<p>1 A Right.</p> <p>2 Q So I'm going to let you take your time to</p> <p>3 look through Exhibit 26 and see if that refreshes your</p> <p>4 recollection as to anybody else that you might have</p> <p>5 considered for the August promotion.</p> <p>6 A Well, anybody that maybe gave me a letter</p> <p>7 before that. And I don't know, do we have these in</p> <p>8 some kind of chronological order? If they gave me a</p> <p>9 letter before that promotion date, then they were</p> <p>10 considered.</p> <p>11 Q There's a number that are undated. So if</p> <p>12 they're undated, I'm assuming you don't know when you</p> <p>13 got them, correct?</p> <p>14 A That's correct.</p> <p>15 Q There's not like some public entity, they'll</p> <p>16 put a receipt stamp on it. Your office doesn't do a</p> <p>17 receipt stamp, right?</p> <p>18 A No, ma'am.</p> <p>19 Q So the only ones that are dated before that</p> <p>20 promotion would be Paris Mosely and Wayne Honer?</p> <p>21 A Wayne Honer, right.</p> <p>22 Q Must have dropped an R in that one.</p> <p>23 A Wayne Honer.</p> <p>24 Q So did you consider Paris Mosely or</p> <p>25 Wayne Honer for that particular promotion?</p>

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<p>1 A I certainly did.</p> <p>2 Q You considered both of them?</p> <p>3 A Yes.</p> <p>4 Q And then there's a number that are undated,</p> <p>5 but they have names attached to them. Did you</p> <p>6 consider Adam Burrow?</p> <p>7 A Yes. Right off the bat, yes.</p> <p>8 Q Chapelle Norise?</p> <p>9 A Chapelle, I just looked at that. Had I not</p> <p>10 just taken his stripes from him? Chapelle Norise. I</p> <p>11 just saw that. Yes, yes. On March the 17th. I'm a</p> <p>12 little confused. Is this before I've taken his</p> <p>13 stripes from him, January, February, March?</p> <p>14 Q Again, Sheriff, the only thing I can tell</p> <p>15 you is a letter from him was produced that's undated</p> <p>16 that asks for him to be considered for promotion to</p> <p>17 sergeant, and I'm asking you if you considered him for</p> <p>18 the August of 2017 promotion.</p> <p>19 A When we say -- in his case, when we say</p> <p>20 consider, I don't know how deeply I considered, him</p> <p>21 having already had stripes taken from him.</p> <p>22 Q Right. What I'm asking, Sheriff, besides</p> <p>23 McGinnist, who we know got the promotion, who else did</p> <p>24 you seriously consider for this promotion?</p> <p>25 A Well, I can tell you who I seriously</p>	<p>1 are like people already in the position doing the job.</p> <p>2 Are you following me, Lynette?</p> <p>3 Q I understand what you're saying, yes.</p> <p>4 A So now with the Danny McGinnist, and I've</p> <p>5 got to again see when did that come up and did I</p> <p>6 actually have a position. There might have been folks</p> <p>7 by that time requesting promotions, and if the case</p> <p>8 was that I had an open position, I would have been</p> <p>9 considering other people.</p> <p>10 Because I know about Wayne Honer and</p> <p>11 Paris Moseley, both of those folks have in passing</p> <p>12 said something to me. I think, of course, they gave</p> <p>13 me letters.</p> <p>14 So that's the same way you asked me if</p> <p>15 Castellano was considered. Castellano never said</p> <p>16 anything to me about promotion, so what am I supposed</p> <p>17 to -- read his mind? I had no idea the guy was</p> <p>18 interested in any kind of promotion.</p> <p>19 Q But, again, you testified previously that</p> <p>20 certain people are promoted because you see them and</p> <p>21 you think they're doing a good job and they should be</p> <p>22 promoted. You're not saying that everybody you</p> <p>23 promoted has asked to be promoted, correct?</p> <p>24 A Correct.</p> <p>25 Q So you can promote people because they give</p>
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<p>1 considered. I did seriously consider Paris Mosely and</p> <p>2 Wayne Honer. Those were serious considerations.</p> <p>3 Q Did you consider John Castellano?</p> <p>4 A I don't think I even know he wanted to be</p> <p>5 promoted at that point.</p> <p>6 Q When you promoted Davis and Haill and</p> <p>7 Cannon, they hadn't submitted letters to you, correct?</p> <p>8 A They had.</p> <p>9 Q They had?</p> <p>10 A Well, I don't know. I don't remember</p> <p>11 whether they had or not. Again, those people were</p> <p>12 promoted because there was a situation -- like I said,</p> <p>13 in Felicia's case, she was already working as the</p> <p>14 sergeant, and I don't believe in acting sergeants, so</p> <p>15 we made her a sergeant.</p> <p>16 In Tim Haill's case, he was there doing that</p> <p>17 job, and he was doing exactly what I wanted him to do,</p> <p>18 displayed all of the characteristics and everything,</p> <p>19 and so that's how he got promoted.</p> <p>20 So it ain't like I even was considering</p> <p>21 anybody else for those promotions. Even with these</p> <p>22 letters from Paris Mosely, and I don't know the</p> <p>23 timing, again, on that, or the timing with</p> <p>24 Wayne Honer, but I didn't consider neither one of them</p> <p>25 people for those particular positions because those</p>	<p>1 you a letter and they want to be considered, or you</p> <p>2 promote people because you think they're a good person</p> <p>3 for the job and you promote them, correct?</p> <p>4 A That's correct.</p> <p>5 Q Regardless of whether they've given you a</p> <p>6 letter or not.</p> <p>7 A That's correct.</p> <p>8 Q Do you know how many people you've promoted</p> <p>9 that have actually given you a letter to be</p> <p>10 considered?</p> <p>11 A I think just about everybody except for</p> <p>12 maybe one or two. I don't know.</p> <p>13 Q So with the exception of maybe Davis and</p> <p>14 Haill, you -- all the other people you've considered</p> <p>15 for promotion is because they've said they were</p> <p>16 interested, correct?</p> <p>17 A Correct.</p> <p>18 Q When I say they've told you that they're</p> <p>19 interested, that's by letter because you want them to</p> <p>20 let you know by letter because you want to have that</p> <p>21 summary of their qualifications, et cetera.</p> <p>22 A Yes.</p> <p>23 Q Let me ask you. You say you considered</p> <p>24 Mosely and Honer for the promotion. Were they part --</p> <p>25 what I'm really interested in, was there a small group</p>

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<p>1 him, I think he had been some kind of officer in other 2 aspects, in other places where he had worked. I got 3 that information. 4 Q Do you know where you got that information? 5 A From him. 6 Q Was that part of when you interviewed him, 7 whether it was in your office or somewhere else? 8 A Sure. Yeah, that was -- could have been. 9 Q Has McGinnist incurred any discipline since 10 he was promoted to sergeant? 11 A Yes, ma'am. 12 Q And what has he been disciplined for? 13 A I guess recently, just the other day, he 14 lost his stripes. 15 Q So he's been demoted? 16 A He's been demoted as of this past Friday. 17 He's been in my office a couple of times because he 18 had run-ins with his superiors. There's been 19 discrepancies as to how things should run and who said 20 what and what was done that was right or wrong, and so 21 he's been in the office for that. 22 I think I suspended him before, too, I have 23 to look and see. But just recently, he's been 24 suspended. He was suspended last week and he lost his 25 stripes. But he's had two incidents before this</p>	<p>1 office, there's nothing that keeps you from looking at 2 any file in your office, correct? 3 A That's correct. 4 Q So my question is, and I will represent that 5 the two-week suspension, anger management counseling 6 and two years of probation related to an incident at 7 Barnes Hospital is, in fact, part of the file that was 8 produced to us yesterday related to discipline on 9 McGinnist. And so wouldn't you want to be reading 10 these files, these personnel files to make sure you 11 don't have these kinds of problems before you promote 12 somebody? 13 MS. LEWIS: Objection. 14 THE WITNESS: I guess from now on I will. 15 MS. PETRUSKA: I'm sorry, Korey? 16 MS. LEWIS: Objection. Argumentative. 17 Go ahead, Vernon. 18 BY MS. PETRUSKA: 19 Q I'm sorry, your answer was I guess from 20 now -- 21 A I'm pretty sure from now on I will. 22 Q Would it concern you if a deputy gave one 23 account of an event that was contradicted by multiple 24 witnesses, would you be concerned about that deputy's 25 honesty?</p>
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<p>1 recent incident. 2 Q Were you aware that in 2010 he was suspended 3 for two weeks and made to go to anger management 4 counseling? 5 A In 2010? 6 Q Because of a confrontation he had had at 7 Barnes Hospital where he threatened to blow somebody's 8 brains out? 9 A I was not aware of that. 10 Q Are you aware that that is in his 11 disciplinary file? 12 MS. LEWIS: Objection. Assumes facts not in 13 evidence. 14 THE WITNESS: Do I have to answer that? 15 MS. LEWIS: Yes, sir, if you know. 16 THE WITNESS: I was not aware of that being 17 in his disciplinary file because, as I've said before, 18 I don't go perusing through the files when I'm making 19 these kind of decisions. 20 Q Isn't that something you would want to know 21 before you promoted somebody to sergeant if in the 22 past they've gotten involved in a verbal confrontation 23 and threatened to blow somebody's brains out? 24 A I would want to know that, yes. 25 Q If it's in the personnel file in your</p>	<p>1 A Most definitely, yes. 2 Q I'm assuming because you hadn't seen the 3 McGinnist file, you weren't aware that he gave a 4 statement that was contradicted by numerous witnesses. 5 A You're correct in that. 6 Q If I'm understanding your testimony 7 correctly, McGinnist, who was promoted in August of 8 '17, wasn't one of the best picks you made because 9 you've since had to demote him; is that correct? 10 MS. LEWIS: Objection. Argumentative. 11 THE WITNESS: You can say that. 12 BY MS. PETRUSKA: 13 Q And you said he had some run-ins with his 14 supervisor. What were the run-ins he had with his 15 supervisor? 16 A I don't remember the exact gist of the 17 conversation, but I know a couple of times he's been 18 in my office because he and Dawn Roop had some 19 question or some problems. 20 Q So you interviewed McGinnist for this 21 position per what you described before. Did you 22 interview anybody else for this particular position, 23 the August of 2017 promotion? 24 A I'm sure I looked at -- if they gave me the 25 letters before I filled the position, I'm sure I</p>

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<p>1 a list? No. But did I have guys? These guys, I knew 2 of their integrity, as you would say integrity. 3 Now, there again, all of that has got to be 4 qualified, but when you talk about them doing the job 5 and working as a deputy, I knew those guys had the 6 ability. I don't think anybody on that job, Lynette, 7 you're going to find didn't have some kind of some 8 skeletons in their closet. So I had to pick the best 9 that I had. When we say the best, and that's 10 relevant, but we had to pick from what we had. 11 Q Let me go back. I told you I'd give you 12 some time to think about it and go back to it. What 13 would John Castellano have to do to be considered for 14 promotion in your sheriff's department? 15 MS. LEWIS: Object to the form. Improper 16 hypothetical. 17 Go right ahead, Vernon. 18 THE WITNESS: Yeah. John Castellano? I 19 don't know. 20 BY MS. PETRUSKA: 21 Q I need to give you more time? 22 A Probably several years, I don't know. I'm 23 not going to answer that question. 24 Q You're refusing to answer that question? 25 A I'm saying I can't answer that question.</p>	<p>1 think that's the point, Lynette. It's my prerogative 2 to determine who I want to work for me, and those 3 people, I ain't saying that they were angels, I'm 4 saying that they were doing what I asked them to do at 5 the time. 6 Q You said that he would have to improve his 7 personality. What about his personality is deficient 8 that he's not currently being considered for 9 promotion? 10 A You've got to be able to communicate with 11 the people that you work with. 12 Q How is he failing to communicate? 13 A That's one of his flaws as far as I can see. 14 Q And my question is, right: What have you 15 observed that shows that he fails to communicate with 16 people? 17 A He's not a -- I don't see him cordially 18 communicating with anybody. He definitely doesn't 19 communicate with his sheriff. That's the first person 20 you've got to start off with. 21 Q Anything else in terms of his communication 22 and personality? 23 A His judgment. Judgment. To me he hasn't 24 used the best judgment. There's a couple different 25 situations, and I'm afraid that that will lead into --</p>
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<p>1 THE WITNESS: Korey, is there some kind of 2 penalty for not answering that question or what? 3 MS. LEWIS: You need to answer any question 4 to the best of your ability. So I think what Lynette 5 wants to figure out here is, is there something that 6 you're not understanding about the question or what 7 aspect are you struggling with to answer? 8 THE WITNESS: So the question is what would 9 it take for John Castellano for Vernon Betts -- what's 10 the question? 11 BY MS. PETRUSKA: 12 Q What would John Castellano have to do to be 13 considered for promotion? 14 MS. LEWIS: Same objection. 15 THE WITNESS: John Castellano has got to 16 improve in every aspect of his person, personality, 17 work ethic. Like I said before, he doesn't do 18 anything to get himself in trouble, but he doesn't do 19 anything to stand out. He ain't hitting 300, if you 20 understand that analogy. 21 BY MS. PETRUSKA: 22 Q I do. So are you saying that the people 23 that you promoted are hitting 300? 24 A When I selected them they were. They were 25 doing just what I thought they should be doing. And I</p>	<p>1 any time you -- he doesn't use good judgment. He 2 didn't use good judgment. 3 Q You said there are specific situations. 4 What specific things has he done that you believe do 5 not show good judgment? 6 A Well, I know that he had an altercation with 7 Antoine Cannon once. They went to move some 8 prisoners, pick up prisoners or whatever, and 9 Antoine Cannon was his supervisor. He tells 10 Antoine Cannon -- Antoine Cannon gives him the keys to 11 drive, and he tells Antoine Cannon that he ain't 12 driving. That was a no no. I'm not sure if -- I 13 think that was a write-up. I think that's in his 14 file. 15 Q Anything else? 16 A Yes. He -- I know one time his car wouldn't 17 start, and instead of him asking his supervisor or 18 calling me and asking me can he use one of the vans, 19 he spends the night sleeping on the floor of the 20 building or something to that effect, but he's staying 21 all night on the job. Judgment, judgment, judgment. 22 And then overall, I mean, if you wanted to 23 be promoted, how come you just didn't come to me 24 and -- or how come you just didn't write a letter and 25 say, hey, I would like to, like everybody else, like</p>

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<p>1 who the rest of that jargon. And that's another thing</p> <p>2 that I've said to these guys. You give me these forms</p> <p>3 and stuff and I can't figure out who is the one doing</p> <p>4 the writing.</p> <p>5 Q These were Meyer, Lalu -- never going to say</p> <p>6 that name right, I'll let you say it.</p> <p>7 A Mark Lalumandire. L-A-L-U-M-A-N-D-I-R-E.</p> <p>8 Q Thank you. Evans, Friar, Borisch and</p> <p>9 Hopgood were people that you were -- were they people</p> <p>10 you were considering for sergeant?</p> <p>11 A No, these are people that they thought I</p> <p>12 should consider.</p> <p>13 Q So this is some sergeant telling you who</p> <p>14 they think you should consider, and they submit this</p> <p>15 to you for your consideration.</p> <p>16 A Yes.</p> <p>17 Q Did you request this or did you -- did it</p> <p>18 come to you unsolicited?</p> <p>19 A No. I think this came up in a supervisor</p> <p>20 meeting. I might have said we've got some openings,</p> <p>21 blah, blah. Who do you think, or who should we</p> <p>22 consider for -- I think that's how that came about.</p> <p>23 Q So this was something you requested and a</p> <p>24 sergeant took you up on it and gave you a list of</p> <p>25 people he thought was good with the pros and cons; is</p>	<p>1 those applications, people who are asking me about</p> <p>2 promotions. And I probably, if I don't throw it in</p> <p>3 there, I'll throw it in my main drawer right in front</p> <p>4 of me so that I can go back and look at those names</p> <p>5 and massage those names in my mind. And then -- in</p> <p>6 this case, I don't consider that a formal write-up or</p> <p>7 anything. After I made my choice, I probably threw</p> <p>8 that piece of paper in the trash can.</p> <p>9 Q Why would you do that?</p> <p>10 A Because I've made my selection. I don't</p> <p>11 count this -- I don't count this -- now that you're</p> <p>12 using it for official document or something, I never</p> <p>13 would count this as an official. I just asked the</p> <p>14 employees off-the-cuff to give me some names. It</p> <p>15 could have been on a piece of toilet paper, it</p> <p>16 wouldn't have made me any difference. But now, of</p> <p>17 course, you see, everything comes into play these</p> <p>18 days.</p> <p>19 Q Sheriff, the only thing I would ask is if</p> <p>20 you would check your drawer to see if you have any</p> <p>21 other documents like this beyond the one that was</p> <p>22 produced, okay?</p> <p>23 A Okay. And I think we might have done that</p> <p>24 already.</p> <p>25 Q My understanding is your brother Howard is</p>
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<p>1 that correct?</p> <p>2 A That's correct.</p> <p>3 Q Have you received similar documents from any</p> <p>4 of your other supervisors?</p> <p>5 A Yes.</p> <p>6 Q And who did you receive similar documents</p> <p>7 from?</p> <p>8 A And I remember getting several different</p> <p>9 pieces of paper from folks with something, not the</p> <p>10 same format, but something with names and who they</p> <p>11 thought. Might have been just a single name, you</p> <p>12 know, without explanation. But, yeah, I remember</p> <p>13 getting something from a couple of -- several of the</p> <p>14 different supervisors.</p> <p>15 Q When you get recommendations like that,</p> <p>16 where do you keep them?</p> <p>17 A When I get recommendations like this?</p> <p>18 Q Yes.</p> <p>19 A I usually just throw them in the drawer</p> <p>20 along with the files where people have asked me for</p> <p>21 promotion.</p> <p>22 Q So you keep this in what I'll call your</p> <p>23 sheriff files as opposed to the department files; is</p> <p>24 that correct?</p> <p>25 A Yeah. I have a separate drawer for just</p>	<p>1 also a deputy in the sheriff's department, correct?</p> <p>2 A That's correct.</p> <p>3 Q Have you ever considered him for promotion?</p> <p>4 A Yes.</p> <p>5 Q And what positions have you considered him</p> <p>6 for promotion to?</p> <p>7 A Next to mine, to be the top dog next to me.</p> <p>8 No, I'm being a little facetious. Lynette, I was</p> <p>9 hoping before I came as sheriff that I could promote</p> <p>10 my brother, but unfortunately, because of nepotism,</p> <p>11 that was quickly squashed. So, no, once we figured --</p> <p>12 once we found out that he could not be promoted, then</p> <p>13 that went by the wayside.</p> <p>14 Q And his current rank is deputy, he doesn't</p> <p>15 hold a rank?</p> <p>16 A Right, he's just simply a deputy.</p> <p>17 Q But my understanding is in March of 2017, he</p> <p>18 was given extra pay for extra duties; is that correct?</p> <p>19 A That is correct.</p> <p>20 Q What extra duties was he given?</p> <p>21 A He was given the responsibility for keeping</p> <p>22 the time for payroll for the security unit. That</p> <p>23 became an issue early in my tenure that I had several</p> <p>24 employees who came to me and said that their paycheck</p> <p>25 was messed up, they didn't get paid for proper timing.</p>

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<p>1 And so we went through a discovery to figure out why 2 they were not getting paid properly. 3 Come to find out that the lieutenant at that 4 time, I called his name earlier, it escapes me again, 5 but that lieutenant was not doing the job. He was 6 allowing other employees to do the time. That's a 7 no-no. That's supposed to be done by a supervisor, 8 not by employees. 9 And so we ended up figuring out that that 10 supervisor, John Tyra, he said he did not do the time, 11 that he didn't want to do the time because he didn't 12 deal with the computers, he didn't have that skill. 13 And so we had to find somebody that could put the time 14 in for those employees and do it properly. I'm not 15 going to be mispaying these people. I don't play that 16 either. 17 So we went down our seniority list for those 18 people that worked in security. Howard was like the 19 third person on the list. We got to him. He accepted 20 the responsibility. He did the job for about three 21 weeks, and all of a sudden my payroll clerk, I call -- 22 Captain Hogan came to me and said, hey, you know that 23 if he's doing the response -- the work of the 24 lieutenant, that he's supposed to get extra pay. And 25 I said, who told you that? She said, that's what the</p>	<p>1 Q You're the sheriff, you can promote anybody 2 you want at any time to lieutenant, correct? 3 A Are you telling me that I can now? 4 Q I'm asking. So if you've got a lieutenant 5 in security that's not doing the job, you can get rid 6 of him and promote somebody else to lieutenant who is 7 going to do the job, correct? 8 A I guess I could have. 9 Q Yolanda Jones. She didn't make a claim 10 against you, she made it against Sheriff Murphy, 11 correct? 12 A I don't know anything about that. 13 Q So it sounds like you don't even know 14 Yolanda Jones, it sounds like. 15 A I do know Yolanda Jones, that's one of my 16 employees. 17 Q She's a current employee? 18 A Yes. 19 Q Do you know anything about a charge of 20 discrimination she made? 21 A No, I don't. 22 Q But Shamera Smith was an employee of the 23 sheriff's department; is that correct? 24 A That's correct. 25 Q How long did she work for the sheriff's</p>
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<p>1 pay bill says. I said, let me see the pay bill. She 2 showed it to and, sure enough, the pay bill states 3 that if you're doing -- we talked about that earlier 4 in the conversation about the extra work, or something 5 like that -- that he's supposed to get this extra pay. 6 So by the book, he was given that 7 five percent -- that five percent stipend, and it just 8 so happened that that came along at about the same 9 time that his two percent raise was supposed to come. 10 And lo and behold, somebody got ahold of that and put 11 that in the newspaper that I was showing favoritism 12 and I gave my brother a seven percent raise. 13 Q If your lieutenant was supposed to do 14 payroll and he wasn't doing the job, why didn't you 15 demote the lieutenant and get another lieutenant in to 16 do the job that the lieutenant was supposed to do? 17 A That lieutenant eventually did get -- he 18 didn't get promoted, but he resigned, he retired. 19 That was one of the issues that kind of pushed him 20 into retiring. 21 And you say get another lieutenant. I 22 didn't have another lieutenant that I could have given 23 that, another lieutenant that worked in the security 24 unit. I didn't have another lieutenant in the 25 security unit, so we asked --</p>	<p>1 department? 2 A Not very long. I don't know if she worked a 3 year, maybe a little better than a year, I'm not sure. 4 Q And did she quit or was she fired? 5 A She was fired. 6 Q Why was she fired? 7 A For insubordination. 8 Q And who was she insubordinate towards? 9 A Me, the sheriff. 10 Q And what did she do to you? 11 A I gave her instructions to remain in my 12 office and she refused. 13 Q Why did you want her to remain in your 14 office? 15 A Because we were about to have a discussion, 16 a disciplinary discussion, and I wanted her to sit 17 there while I take care of some other stuff, and she 18 decided she didn't have time to just stick around 19 doing nothing. If I ask you to sit for eight hours, 20 just like you-all have requested that I sit here for 21 eight hours, then that's what you do. You sit for 22 eight hours. So I gave her a direct instruction and I 23 told her if you walk out of my office, you're going to 24 be fired. She told me -- 25 Q Why were you looking to discipline her</p>

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<p>1 before she walked out of the office, because you said</p> <p>2 it was --</p> <p>3 MS. LEWIS: I object as to the relevance.</p> <p>4 BY MS. PETRUSKA:</p> <p>5 Q Go ahead.</p> <p>6 THE WITNESS: Can I answer that question?</p> <p>7 MS. LEWIS: Go ahead and answer the</p> <p>8 question.</p> <p>9 THE WITNESS: I don't mind answering it.</p> <p>10 She had been involved in another situation, Lynette,</p> <p>11 with another employee. She talked about it being</p> <p>12 sexual harassment or sexual situation. And we had had</p> <p>13 a hearing. We sat down and we talked about all of</p> <p>14 that, and we thought we had cleared all of that stuff</p> <p>15 up. And we thought we had an understanding between</p> <p>16 the two employees, okay, we're through with that,</p> <p>17 we'll leave that alone, everybody going their way.</p> <p>18 And that same day, that young lady actually</p> <p>19 called -- at that time she called that employee's wife</p> <p>20 on her job and then it caused that employee to just go</p> <p>21 livid, who that evening then called -- so we get all</p> <p>22 this hocus-pocus over nothing, over what should have</p> <p>23 been settled.</p> <p>24 So we called her in the office the next day,</p> <p>25 trying to find out how come things were not settled</p>	<p>1 asking about communications with your lawyers -- but</p> <p>2 did you ever ask anybody to investigate her complaint?</p> <p>3 A No. Her complaint as it relates to the</p> <p>4 lawsuit?</p> <p>5 Q Yes.</p> <p>6 A No, I've not asked anybody. I figure</p> <p>7 lawyers are going to take care of all that.</p> <p>8 Q You understand in the lawsuit she alleges</p> <p>9 that you told her to come to work and keep her mouth</p> <p>10 shut. Did you ever say that?</p> <p>11 A I probably -- yeah.</p> <p>12 MS. LEWIS: Objection.</p> <p>13 THE WITNESS: I probably said that to most</p> <p>14 of the employees. Come to work, keep your mouth shut,</p> <p>15 do your job, do it well, get your money and go home.</p> <p>16 Yeah, that's a common phrase that I use because that</p> <p>17 seems to be -- the running of the mouth seems to get a</p> <p>18 lot of stuff stirred around the St. Louis sheriff's</p> <p>19 department. Just come to work and keep your mouth</p> <p>20 closed.</p> <p>21 BY MS. PETRUSKA:</p> <p>22 Q Does that mean that you don't want to hear</p> <p>23 if deputies have complaints about your department?</p> <p>24 A Of course that does not.</p> <p>25 MS. LEWIS: Objection. Misstates testimony.</p>
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<p>1 like we thought they were. Go in the office and have</p> <p>2 a seat, and she decides, as she's done on several</p> <p>3 other occasions, that she don't have to adhere to any</p> <p>4 instructions by a supervisor. This was not the first</p> <p>5 time that a supervisor had given her an instruction</p> <p>6 and she decided that she's going to -- or a supervisor</p> <p>7 wanted to actually sit down and have a conversation</p> <p>8 with her and she decided she wasn't going to listen to</p> <p>9 the supervisor, she didn't have time to listen to the</p> <p>10 supervisor. That was the second time or third time.</p> <p>11 We called her in the office before and</p> <p>12 actually warned her of doing that kind of thing.</p> <p>13 Listen, you can't decide when you're going to listen</p> <p>14 to a supervisor or not. We had instructed her on that</p> <p>15 just a few days before bringing her into my office,</p> <p>16 and I'll be doggone if she don't tell me she ain't got</p> <p>17 time for this. Well, who are you, the sheriff or not,</p> <p>18 or am I the sheriff?</p> <p>19 Q Have you seen her lawsuit against you and</p> <p>20 the City?</p> <p>21 A I think I've looked at it. I don't know.</p> <p>22 Q And you understand that she's accusing you</p> <p>23 of retaliation, correct?</p> <p>24 A Yeah, I guess.</p> <p>25 Q Did you ever ask anybody -- again, I'm not</p>	<p>1 BY MS. PETRUSKA:</p> <p>2 Q So what does it mean?</p> <p>3 A It means -- I mean, just -- everybody's --</p> <p>4 come to work and leave all the grapevine, the yada,</p> <p>5 yada, the bull crap, leave it at the door. Come in,</p> <p>6 do your job. You don't have to do a whole lot of</p> <p>7 hocus-pocus talking about who shot John and -- see, I</p> <p>8 got all this kind of stuff going on, sexual harassment</p> <p>9 and who's looking up someone's dress and blah -- that</p> <p>10 stuff don't need to be talked about on the -- what you</p> <p>11 did on Facebook last night. They know what I'm</p> <p>12 talking about.</p> <p>13 Q If a deputy thinks they've been sexually</p> <p>14 harassed, though, you want to know about that,</p> <p>15 correct?</p> <p>16 A You know I do, yes.</p> <p>17 Q And you want to investigate that, correct?</p> <p>18 A Yes.</p> <p>19 MS. LEWIS: I'm going to jump in and say</p> <p>20 we're going over now. I'll give you about a</p> <p>21 five-minute grace period based on the numbers you gave</p> <p>22 me.</p> <p>23 MS. PETRUSKA: Well, I would disagree with</p> <p>24 the math, but I am almost done.</p> <p>25</p>

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1 BY MS. PETRUSKA:
 2 Q Is John Mopkins also suing you for
 3 retaliation?
 4 A That's what I understand.
 5 Q And he claims that he's been retaliated
 6 against for testifying in the Johnny Chester case; is
 7 that correct?
 8 A That's what he's saying. It has no
 9 validity, but that's what he's saying.
 10 Q And he's saying that he's not being promoted
 11 because of his testimony in the Johnny Chester case,
 12 correct?
 13 A And that's not true.
 14 Q I'm just asking what he's alleging; is that
 15 correct?
 16 A Yeah, that's what he's alleging.
 17 Q Were you present at the Johnny Chester case?
 18 A Yes.
 19 Q Who did Deputy Mopkins testify for at the
 20 Johnny Chester case, plaintiff or defendant?
 21 A He testified for the plaintiff.
 22 Q And did he testify that he believed
 23 Johnny Chester was discriminated against?
 24 A I believe so, yes.
 25 Q And then Alfred Montgomery, he was also a

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1 deputy in the sheriff's department, correct?
 2 A Yes.
 3 Q And he was fired, correct?
 4 A Yes.
 5 Q And why was he fired?
 6 A Basically for the same thing,
 7 insubordination. I mean, just a total jackoff. Can I
 8 say that? I mean just a terrible employee.
 9 Insubordination and disruption of the workplace. He,
 10 too -- he, too came to my office and sat and was just
 11 very, very insubordinate.
 12 Q He's African-American, correct, or black?
 13 A Yes, he's black.
 14 Q Did you ever call him a boy?
 15 A Yeah. Not -- I don't think I called him a
 16 boy. As a matter of fact, I know not on the job.
 17 That's what he is to me, a boy, 23 years old. I'm
 18 almost 70 years old.
 19 MS. LEWIS: Just try to answer the question
 20 that she asked you, Sheriff.
 21 BY MS. PETRUSKA:
 22 Q So when you called him a boy, it's an age
 23 reference, it's not the derogatory racist reference.
 24 A How can it be? He's black, I'm black.
 25 You're right.

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1 Q Some black people say derogatory things to
 2 each other, as you know.
 3 A Sure. No, not then.
 4 Q As we sit here today, do you know what
 5 qualifications John Castellano has to be promoted to
 6 sergeant? What his performance evaluations look like,
 7 what his past trainings and experience have been,
 8 things like that?
 9 MS. LEWIS: Objection as asked and answered.
 10 Go ahead.
 11 THE WITNESS: So do I have to answer that?
 12 MS. LEWIS: Yes, if you know, go right
 13 ahead.
 14 THE WITNESS: I think during the course of
 15 all of this we may have looked at some of
 16 John Castellano's qualifications, background, and
 17 nothing stands out to me.
 18 BY MS. PETRUSKA:
 19 Q Have you looked at his performance
 20 evaluations?
 21 A I think I have.
 22 Q And have you looked at his training record?
 23 A I believe so, yes.
 24 Q And you've looked at his disciplinary
 25 record?

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1 A Yes.
 2 Q And nothing stands out to you in terms
 3 of his work history?
 4 A No.
 5 MS. PETRUSKA: Okay. I believe that is all
 6 the questions I have. Sorry, Sheriff, that doesn't
 7 necessarily mean you're done because Korey can ask you
 8 questions. I don't know if she will, though.
 9 MS. LEWIS: Korey has one question for you,
 10 Sheriff.
 11 This is the end of the deposition. We might
 12 have talked about this before, but it is your decision
 13 if you would like to read the transcript for accuracy
 14 or if you would like to waive and assume that Jo Ann's
 15 done everything accurately and waive your signature.
 16 THE WITNESS: Yeah, let's waive the
 17 signature. I believe Jo Ann's done everything.
 18 MS. LEWIS: That's my only question for you.
 19 MS. PETRUSKA: I do not have any further
 20 questions, with the caveat that I'm going to reserve
 21 the right to petition the court for additional
 22 questions if additional evaluations are found that
 23 haven't been produced prior to the deposition.
 24 Thank you, Sheriff.
 25